

[DISCUSSION DRAFT]

SEPTEMBER 25, 2001

107TH CONGRESS
1ST SESSION**H. R.** __________
IN THE HOUSE OF REPRESENTATIVESM. introduced the following bill; which was referred to the Committee on

_____**A BILL**

To reform the postal laws of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Postal Accountability and Enhancement Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.



2

TITLE I—REDESIGNATION OF THE POSTAL RATE COMMISSION;
DEFINITIONS

- Sec. 101. Redesignation of the Postal Rate Commission.
- Sec. 102. Definitions.

TITLE II—AMENDMENTS RELATING TO POSTAL RATES, CLASSES,
AND SERVICES

Subtitle A—In General

- Sec. 201. Noninterference with collective bargaining agreements, etc.
- Sec. 202. Amendments relating to postal rates, classes, and services.
- Sec. 203. Postal Service Competitive Products Fund.
- Sec. 204. Sense of Congress.
- Sec. 205. Savings provision.

Subtitle B—Related Provisions

- Sec. 211. Authority for Postal Regulatory Commission to issue subpoenas.
- Sec. 212. Qualification requirements for Commissioners and Governors.
- Sec. 213. Appropriations for the Commission.

TITLE III—GENERAL AUTHORITY

- Sec. 301. Rulemaking authority.
- Sec. 302. Discriminatory pricing, services, and classification prohibited.
- Sec. 303. Employment of postal police officers.
- Sec. 304. Date of postmark to be treated as date of appeal in connection with the closing or consolidation of post offices.
- Sec. 305. Unfair competition prohibited.
- Sec. 306. International postal arrangements.
- Sec. 307. Suits by and against the Postal Service.
- Sec. 308. Provisions relating to benefits under chapter 81 of title 5, United States Code, for officers and employees of the former Post Office Department.
- Sec. 309. Technical and conforming amendments.

TITLE IV—PROVISIONS RELATING TO TRANSPORTATION,
CARRIAGE, OR DELIVERY OF MAIL

- Sec. 401. Obsolete provisions.
- Sec. 402. Expanded contracting authority.
- Sec. 403. Private carriage of letters.
- Sec. 404. Repeal of section 5403.

TITLE V—EVALUATIONS

- Sec. 501. Assessments of ratemaking, classification, and other provisions.
- Sec. 502. Employee-management relations.
- Sec. 503. Recommendations on universal postal services.
- Sec. 504. Study on equal application of laws to competitive products.
- Sec. 505. Greater diversity in Postal Service executive and administrative schedule management positions.
- Sec. 506. Plan for assisting displaced workers.
- Sec. 507. Contracts with women, minorities, and small businesses.
- Sec. 508. Rates for periodicals.
- Sec. 509. Assessment of certain rate deficiencies.



Sec. 510. Definition.

TITLE VI—INSPECTORS GENERAL

Sec. 601. Inspector General of the Postal Regulatory Commission.

Sec. 602. Inspector General of the United States Postal Service to be appointed by the President.

1 **TITLE I—REDESIGNATION OF**
2 **THE POSTAL RATE COMMIS-**
3 **SION; DEFINITIONS**

4 **SEC. 101. REDESIGNATION OF THE POSTAL RATE COMMIS-**
5 **SION.**

6 (a) AMENDMENTS TO TITLE 39, UNITED STATES
7 CODE.—Title 39, United States Code, is amended—

8 (1) in sections 404, 1001, 1002, 3601, 3602,
9 3603, and 3604 by striking “Postal Rate Commis-
10 sion” each place it appears and inserting “Postal
11 Regulatory Commission”;

12 (2) in the heading for subchapter I of chapter
13 36 by striking “POSTAL RATE COMMISSION”
14 and inserting “POSTAL REGULATORY COMMIS-
15 SION”; and

16 (3) in the table of sections for chapter 36 by
17 striking the item relating to subchapter I and insert-
18 ing the following:

“SUBCHAPTER I—POSTAL REGULATORY COMMISSION”.

19 (b) AMENDMENTS TO TITLE 5, UNITED STATES
20 CODE.—Title 5, United States Code, is amended in sec-
21 tions 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item



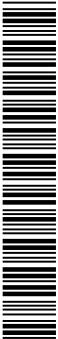
1 relating to Chairman, Postal Rate Commission), 5315 (in
2 the item relating to Members, Postal Rate Commission),
3 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii),
4 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking
5 “Postal Rate Commission” and inserting “Postal Regu-
6 latory Commission”.

7 (c) AMENDMENT TO THE ETHICS IN GOVERNMENT
8 ACT OF 1978.—Section 101(f)(6) of the Ethics in Govern-
9 ment Act of 1978 (5 U.S.C. App.) is amended by striking
10 “Postal Rate Commission” and inserting “Postal Regu-
11 latory Commission”.

12 (d) AMENDMENT TO THE REHABILITATION ACT OF
13 1973.—Section 501(b) of the Rehabilitation Act of 1973
14 (29 U.S.C. 791(b)) is amended by striking “Postal Rate
15 Office” and inserting “Postal Regulatory Commission”.

16 (e) AMENDMENT TO TITLE 44, UNITED STATES
17 CODE.—Section 3502(5) of title 44, United States Code,
18 is amended by striking “Postal Rate Commission” and in-
19 serting “Postal Regulatory Commission”.

20 (f) OTHER REFERENCES.—Whenever a reference is
21 made in any provision of law (other than this Act or a
22 provision of law amended by this Act), regulation, rule,
23 document, or other record of the United States to the
24 Postal Rate Commission, such reference shall be consid-
25 ered a reference to the Postal Regulatory Commission.



1 **SEC. 102. DEFINITIONS.**

2 (a) IN GENERAL.—Section 102 of title 39, United
3 States Code, is amended by striking “and” at the end of
4 paragraph (3), by striking the period at the end of para-
5 graph (4) and inserting a semicolon, and by adding at the
6 end the following:

7 “(5) ‘postal service’ refers to the physical deliv-
8 ery of letters, printed matter, or packages weighing
9 up to 70 pounds, including physical acceptance, col-
10 lection, sorting, or transportation services ancillary
11 thereto;

12 “(6) ‘product’ includes—

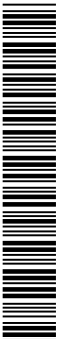
13 “(A) a class of mail or type of postal serv-
14 ice; and

15 “(B) each subordinate unit of a product
16 described in subparagraph (A), at or below the
17 subclass level, for which a rate is applied;

18 “(7) ‘rates’, as used with respect to products,
19 includes fees for postal services;

20 “(8) ‘market-dominant product’ or ‘product in
21 the market-dominant category of mail’ means a
22 product subject to subchapter II of chapter 36; and

23 “(9) ‘competitive product’ or ‘product in the
24 competitive category of mail’ means a product sub-
25 ject to subchapter III of chapter 36;



1 “(10) ‘Consumer Price Index’ means the Con-
2 sumer Price Index for All Urban Consumers pub-
3 lished monthly by the Bureau of Labor Statistics of
4 the Department of Labor; and

5 “(11) ‘year’, as used in chapter 36 (other than
6 subchapters I and VIII thereof), means a fiscal
7 year.”.

8 (b) SPECIFIC POWERS.—

9 (1) NONPOSTAL SERVICES NOT PERMITTED.—

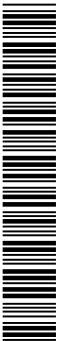
10 (A) IN GENERAL.—Section 404 of title 39,
11 United States Code, is amended—

12 (i) in subsection (a), by striking para-
13 graph (6) and by redesignating paragraphs
14 (7) through (9) as paragraphs (6) through
15 (8), respectively; and

16 (ii) by adding at the end the fol-
17 lowing:

18 “(c) Nothing in this title shall be considered to permit
19 or require that the Postal Service provide any special non-
20 postal or similar services.”.

21 (B) CONFORMING AMENDMENTS.—(i) Sec-
22 tion 1402(b)(1)(B)(ii) of the Victims of Crime
23 Act of 1984 (98 Stat. 2170; 42 U.S.C.
24 10601(b)(1)(B)(ii)) is amended by striking
25 “404(a)(8)” and inserting “404(a)(7)”.



1 (ii) Section 2003(b)(1) of title 39, United
2 States Code, is amended by striking “and non-
3 postal”.

4 (2) AUTHORITY TO FIX RATES AND CLASSES
5 GENERALLY; REQUIREMENT RELATING TO LETTERS
6 SEALED AGAINST INSPECTION.—Section 404 of title
7 39, United States Code (as amended by paragraph
8 (1)) is further amended by redesignating subsections
9 (b) and (c) as subsections (d) and (e), respectively,
10 and by inserting after subsection (a) the following:

11 “(b) Except as otherwise provided, the Governors are
12 authorized to establish reasonable and equitable classes of
13 mail and reasonable and equitable rates of postage and
14 fees for postal services in accordance with the provisions
15 of chapter 36. Postal rates and fees shall be reasonable
16 and equitable and sufficient to enable the Postal Service,
17 under best practices of honest, efficient, and economical
18 management, to maintain and continue the development
19 of postal services of the kind and quality adapted to the
20 needs of the United States.

21 “(c) The Postal Service shall maintain one or more
22 classes of mail for the transmission of letters sealed
23 against inspection. The rate for each such class shall be
24 uniform throughout the United States, its territories, and
25 possessions. One such class shall provide for the most ex-



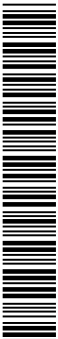
1 peditious handling and transportation afforded mail mat-
2 ter by the Postal Service. No letter of such a class of do-
3 mestic origin shall be opened except under authority of
4 a search warrant authorized by law, or by an officer or
5 employee of the Postal Service for the sole purpose of de-
6 termining an address at which the letter can be delivered,
7 or pursuant to the authorization of the addressee.”.

8 **TITLE II—AMENDMENTS RELAT-**
9 **ING TO POSTAL RATES,**
10 **CLASSES, AND SERVICES**
11 **Subtitle A—In General**

12 **SEC. 201. NONINTERFERENCE WITH COLLECTIVE BAR-**
13 **GAINING AGREEMENTS, ETC.**

14 (a) NONINTERFERENCE WITH COLLECTIVE BAR-
15 GAINING AGREEMENTS.—Nothing in this Act or any
16 amendment made by this Act shall restrict, expand, or
17 otherwise affect any of the rights, privileges, or benefits
18 of either employees of or labor organizations representing
19 employees of the United States Postal Service under chap-
20 ter 12 of title 39, United States Code, the National Labor
21 Relations Act, any handbook or manual affecting employee
22 labor relations within the United States Postal Service,
23 or any collective bargaining agreement.

24 (b) AUTOMATIC TERMINATION OF ANY RATE CASE
25 PENDING ON DATE OF ENACTMENT.—To the extent that



1 any proceedings relating to a request made under section
2 3622 of title 39, United States Code (as last in effect be-
3 fore the date of enactment of this Act) remain pending
4 as of such date of enactment, any further action taken
5 in connection with such request shall be null and void.

6 (c) FREE MAILING PRIVILEGES CONTINUE UN-
7 CHANGED.—Nothing in this Act or any amendment made
8 by this Act shall affect any free mailing privileges ac-
9 corded under section 3217 or sections 3403 through 3406
10 of title 39, United States Code.

11 **SEC. 202. AMENDMENTS RELATING TO POSTAL RATES,**
12 **CLASSES, AND SERVICES.**

13 (a) ESTABLISHMENT.—

14 (1) IN GENERAL.—Title 39, United States
15 Code, is amended by striking subchapters II through
16 V of chapter 36 and inserting the following:

17 “SUBCHAPTER II—RATES FOR PRODUCTS IN
18 THE MARKET-DOMINANT CATEGORY OF MAIL

19 **“§ 3611. Applicability; definitions and updates**

20 “(a) APPLICABILITY.—This subchapter shall apply
21 with respect to—

22 “(1)(A) single piece first-class letters (both do-
23 mestic and international);

24 “(B) single piece first-class cards (both domes-
25 tic and international);



1 “(C) single piece parcels (both domestic and
2 international); and

3 “(D) special services;

4 “(2) all first-class mail not included under
5 paragraph (1);

6 “(3) periodicals; and

7 “(4) standard mail (except for parcel post),
8 subject to subsection (b)(2).

9 “(b) DEFINITIONS AND UPDATES.—

10 “(1) DEFINITIONS.—Mail matter referred to in
11 subsection (a) shall, for purposes of this subchapter,
12 be considered to have the meaning given to such
13 mail matter under the mail classification schedule
14 (as last in effect before the date of enactment of the
15 Postal Accountability and Enhancement Act).

16 “(2) UPDATES.—The Postal Regulatory Com-
17 mission shall, whenever necessitated by a change
18 under section 3644 or 3645, prescribe new lists of
19 products to which this subchapter applies. The re-
20 vised lists shall indicate how and when any previous
21 lists (including the list under subsection (a)) are su-
22 perseded, and shall be published in the Federal Reg-
23 ister.



1 **“§ 3612. Authority to establish rates**

2 “(a) IN GENERAL.—The Governors, with the written
3 concurrence of a majority of all of the Governors then
4 holding office, shall establish rates for products in the
5 market-dominant category of mail in accordance with the
6 requirements of this subchapter and the policies of this
7 title.

8 “(b) PROCEDURES.—

9 “(1) IN GENERAL.—Rates shall be established
10 in writing, complete with—

11 “(A) a statement of explanation and jus-
12 tification; and

13 “(B) the date as of which each such rate
14 takes effect.

15 “(2) PUBLICATION.—The Governors shall cause
16 each rate decision under this section and the record
17 of the Governors’ proceedings in connection with
18 such decision to be published in the Federal
19 Register—

20 “(A) at least 45 days before the effective
21 date of such rate or rates (or, if different rates
22 are to become effective on different dates in the
23 year, at least 45 days before the earliest of
24 them); but

25 “(B) no earlier than the date on which the
26 Postal Service submits its report (for the year



1 before the year in which such rate or rates are
2 to take effect) under section 3652(a) to the
3 Postal Regulatory Commission.

4 “(3) ALL INFORMATION TO BE PUBLISHED ON
5 SAME DAY.—The requirements of this subsection
6 shall not be considered met with respect to a year
7 unless all rates and other information required with
8 respect to such year under paragraph (1) are pub-
9 lished, in conformance with the requirements of
10 paragraph (2), on the same day.

11 **“§ 3613. Revenue requirements for market-dominant**
12 **products**

13 “(a) IN GENERAL.—Rates for market-dominant
14 products may, with respect to any year, be fixed at such
15 levels as the Governors consider appropriate, so long as—

16 “(1)(A) the total estimated revenues to be re-
17 ceived by the Postal Service from all market-domi-
18 nant products in such year does not exceed

19 “(B) the total revenues actually received by the
20 Postal Service from all market-dominant products in
21 the preceding year, adjusted by the change in the
22 Consumer Price Index for the year referred to in
23 subparagraph (A); and

24 “(2)(A) the total estimated revenues to be re-
25 ceived by the Postal Service from each subclass of



1 each market-dominant product in such year does not
2 exceed

3 “(B) the total revenues actually received by the
4 Postal Service from such subclass in the preceding
5 year, adjusted by the change in the Consumer Price
6 Index for the year referred to in subparagraph (A).

7 “(b) METHODOLOGY FOR DETERMINING ESTIMATED
8 REVENUES.—For purposes of this section, the estimated
9 revenues to be received by the Postal Service from any
10 category or subclass of products in a year shall be deter-
11 mined by multiplying the proposed rate or rates for such
12 category or subclass (as applicable) in such year by the
13 total number of pieces (or other appropriate volume meas-
14 ure) of such category or subclass (as applicable) in the
15 immediately preceding year, prorated to reflect the portion
16 of the year during which each such rate is to be in effect
17 (if less than the entire year).

18 “(c) SUBCLASS DEFINED.—For purposes of this
19 section—

20 “(1)(A) the term ‘subclass’, with respect to a
21 product, means a subclass or other first-level subor-
22 dinate unit of such product, including all further
23 subordinate units within such first-level subordinate
24 unit, for which a rate is applied; and



1 “(B) a subclass shall be considered to consist of
2 the first-level subordinate unit involved and all fur-
3 ther subordinate units thereof (as referred to in sub-
4 paragraph (A)), taken collectively; except that

5 “(2) all mail matter under section
6 3611(a)(1)(A)–(D), including all further subordinate
7 units thereof for which a rate is applied shall, collec-
8 tively, be treated as a discrete subclass.

9 “(d) PROVISIONS FOR DETERMINING THE CHANGE
10 IN THE CONSUMER PRICE INDEX FOR A YEAR.—For pur-
11 poses of this section—

12 “(1) IN GENERAL.—The change in the Con-
13 sumer Price Index for a year shall be equal to the
14 percentage (expressed as a positive value, a negative
15 value, or zero, as the case may be) by which the
16 Consumer Price Index for the preceding year differs
17 from the Consumer Price Index for the second pre-
18 ceding year.

19 “(2) CONSUMER PRICE INDEX FOR A YEAR.—
20 The Consumer Price Index for a year is the average
21 of the Consumer Price Index for the 12-month pe-
22 riod ending on June 30th of such year.

23 “(e) METHOD OF ADJUSTMENT.—To adjust an
24 amount by a change in the Consumer Price Index under
25 this section—



1 “(1) increase such amount by the percentage
2 increase in the Consumer Price Index;

3 “(2) decrease such amount by the percentage
4 decrease in the Consumer Price Index; or

5 “(3) if the change in the Consumer Price Index
6 is zero, leave such amount unchanged.

7 “(f) SPECIAL RULES TO ENSURE REPRESENTATIVE
8 DATA FOR NEW PRODUCTS.—Following the introduction
9 of a new market-dominant product under section 3642,
10 determinations under this section shall be made in accord-
11 ance with the preceding provisions of this section, subject
12 to the following:

13 “(1) DISREGARD DATA RELATING TO NEW
14 PRODUCT UNTIL COMPLETION OF FIRST FULL YEAR
15 THROUGHOUT WHICH IT IS OFFERED.—For pur-
16 poses of fixing rates for any year beginning before
17 the last day of the first full year throughout which
18 such product is offered, all determinations under
19 this section shall be made disregarding revenues,
20 mail volumes, and all other data (both actual and es-
21 timated) attributable to such product.

22 “(2) ESTIMATED REVENUES FOR YEARS SUBSE-
23 QUENT TO FIRST FULL YEAR TO INCLUDE REVE-
24 NUES ATTRIBUTABLE TO NEW PRODUCT.—All esti-
25 mates under paragraphs (1)(A) and (2)(A) of sub-



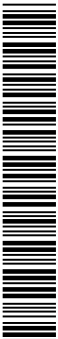
1 section (a) shall, in the case of estimates for any
2 year beginning after completion of the first full year
3 (described in paragraph (1)) with respect to such
4 product, be made taking into account all relevant
5 data attributable to such product.

6 “(3) ACTUAL REVENUES AGAINST WHICH ESTI-
7 MATED REVENUES ARE COMPARED SHALL REFLECT
8 ACTUAL REVENUES ATTRIBUTABLE TO NEW PROD-
9 UCT.—All determinations of actual revenues under
10 paragraphs (1)(B) and (2)(B) of subsection (a)
11 shall, in the case of the year preceding any year for
12 which any estimates are made in accordance with
13 paragraph (2), be made taking into account all rel-
14 evant data attributable to such product.

15 **“§ 3614. Reduced rates**

16 “(a)(1) Except as otherwise provided in this section,
17 rates of postage for a class of mail or kind of mailer under
18 former section 4358, 4452(b), 4452(c), 4554(b), or
19 4554(c) of this title shall be established in accordance with
20 sections 3611–3613.

21 “(2) For the purpose of this subsection, the term
22 ‘regular-rate category’ means any class of mail or kind of
23 mailer, other than a class or kind referred to in section
24 2401(c).



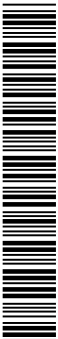
1 “(3)(A) Except as specified in subparagraph (B),
2 rates of postage for a class of mail or kind of mailer under
3 former section 4358 (d) or (e) of this title shall be estab-
4 lished so that postage on each mailing of such mail shall
5 be as nearly as practicable 5 percent lower than the post-
6 age for a corresponding regular-rate category mailing.

7 “(B) With respect to the postage for the advertising
8 pound portion of any mail matter under former section
9 4358 (d) or (e) of this title, the 5-percent discount speci-
10 fied in subparagraph (A) shall not apply if the advertising
11 portion exceeds 10 percent of the publication involved.

12 “(4) The rates for any advertising under former sec-
13 tion 4358(f) of this title shall be equal to 75 percent of
14 the rates for advertising contained in the most closely cor-
15 responding regular-rate category of mail.

16 “(5) The rates for mail matter under former sections
17 4452 (b) and (c) of this title shall be established as fol-
18 lows:

19 “(A) The estimated average revenue per piece
20 to be received by the Postal Service from each sub-
21 class of mail under former sections 4452 (b) and (c)
22 of this title shall be equal, as nearly as practicable,
23 to 60 percent of the estimated average revenue per
24 piece to be received from the most closely cor-
25 responding regular-rate subclass of mail.



1 “(B) For purposes of subparagraph (A), the es-
2 timated average revenue per piece of each regular-
3 rate subclass shall be calculated on the basis of ex-
4 pected volumes and mix of mail for such subclass at
5 current rates in the test year of the proceeding.

6 “(C) Rate differentials within each subclass of
7 mail matter under former sections 4452 (b) and (c)
8 shall reflect the policies of this title, including the
9 factors set forth in section 3622(b) of this title (as
10 last in effect before the date of enactment of the
11 Postal Accountability and Enhancement Act).

12 “(6) The rates for mail matter under former sections
13 4554 (b) and (c) of this title shall be established so that
14 postage on each mailing of such mail shall be as nearly
15 as practicable 5 percent lower than the postage for a cor-
16 responding regular-rate mailing.

17 “(b)(1) For the purposes of this title, the term ‘peri-
18 odical publications’, as used in former section 4351 of this
19 title, includes (A) any catalog or other course listing, in-
20 cluding mail announcements of legal texts which are part
21 of post-bar admission education issued by any institution
22 of higher education or by a nonprofit organization engaged
23 in continuing legal education; and (B) any looseleaf page
24 or report (including any index, instruction for filing, table,
25 or sectional identifier which is an integral part of such



1 report) which is designed as part of a looseleaf reporting
2 service concerning developments in the law or public pol-
3 icy.

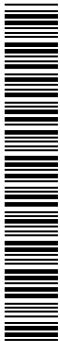
4 “(2) Any material described in paragraph (1) of this
5 subsection shall qualify to be entered and mailed as second
6 class mail in accordance with the applicable provisions of
7 former section 4352 through former section 4357 of this
8 title.

9 “(3) For purposes of this subsection, the term ‘insti-
10 tution of higher education’ has the meaning given it by
11 section 101 of the Higher Education Act of 1965.

12 “(c) In the administration of this section, one con-
13 servation publication published by an agency of a State
14 which is responsible for management and conservation of
15 the fish or wildlife resources of such State shall be consid-
16 ered a publication of a qualified nonprofit organization
17 which qualifies for rates of postage under former section
18 4358(d) of this title.

19 “(d)(1) For purposes of this title, the term ‘agricul-
20 tural’, as used in former sections 4358(j)(2), 4452(d), and
21 4554(b)(1)(B) of this title, includes the art or science of
22 cultivating land, harvesting crops or marine resources, or
23 raising of livestock.

24 “(2) In the administration of this section, and for
25 purposes of former sections 4358(j)(2), 4452(d), and



1 4554(b)(1)(B) of this title, agricultural organizations or
2 associations shall include any organization or association
3 which collects and disseminates information or materials
4 relating to agricultural pursuits.

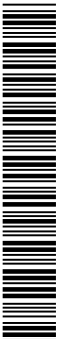
5 “(e)(1) In the administration of this section, the rates
6 for third-class mail matter mailed by a qualified political
7 committee shall be the rates currently in effect under
8 former section 4452 of this title for third-class mail matter
9 mailed by a qualified nonprofit organization.

10 “(2) For purposes of this subsection—

11 “(A) the term ‘qualified political committee’
12 means a national or State committee of a political
13 party, the Republican and Democratic Senatorial
14 Campaign Committees, the Democratic National
15 Congressional Committee, and the National Repub-
16 lican Congressional Committee;

17 “(B) the term ‘national committee’ means the
18 organization which, by virtue of the bylaws of a po-
19 litical party, is responsible for the day-to-day oper-
20 ation of such political party at the national level;
21 and

22 “(C) the term ‘State committee’ means the or-
23 ganization which, by virtue of the bylaws of a polit-
24 ical party, is responsible for the day-to-day operation
25 of such political party at the State level.



1 “(f) In the administration of this chapter, the rates
2 for mail under former section 4358(g) of this title shall
3 be established without regard to either the provisions of
4 such former section 4358(g) or the provisions of this sec-
5 tion.

6 “(g)(1) In the administration of this section, the
7 rates for mail under subsections (a), (b), and (c) of former
8 section 4358 of this title shall not apply to an issue of
9 a publication if the number of copies of such issue distrib-
10 uted within the county of publication is less than the num-
11 ber equal to the sum of 50 percent of the total paid cir-
12 culation of such issue plus one.

13 “(2) Paragraph (1) of this subsection shall not apply
14 to an issue of a publication if the total paid circulation
15 of such issue is less than 10,000 copies.

16 “(3) For purposes of this section and former section
17 4358(a) through (c) of this title, those copies of an issue
18 of a publication entered within the county in which it is
19 published, but distributed outside such county on postal
20 carrier routes originating in the county of publication,
21 shall be treated as if they were distributed within the
22 county of publication.

23 “(4)(A) In the case of an issue of a publication, any
24 number of copies of which are mailed at the rates of post-
25 age for a class of mail or kind of mailer under former



1 section 4358(a) through (c) of this title, any copies of such
2 issue which are distributed outside the county of publica-
3 tion (excluding any copies subject to paragraph (3)) shall
4 be subject to rates of postage provided for under this para-
5 graph.

6 “(B) The rates of postage applicable to mail under
7 this paragraph shall be established in accordance with sec-
8 tions 3611–3613.

9 “(C) This paragraph shall not apply with respect to
10 an issue of a publication unless the total paid circulation
11 of such issue outside the county of publication (not count-
12 ing recipients of copies subject to paragraph (3)) is less
13 than 5,000.

14 “(h) In the administration of this section, the number
15 of copies of a subscription publication mailed to nonsub-
16 scribers during a calendar year at rates under subsections
17 (a), (b), and (c) of former section 4358 of this title may
18 not exceed 10 percent of the number of copies of such
19 publication mailed at such rates to subscribers.

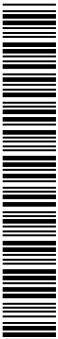
20 “(i)(1) In the administration of this section, the rates
21 for mail under former section 4452(b) or 4452(c) of this
22 title shall not apply to mail which advertises, promotes,
23 offers, or, for a fee or consideration, recommends, de-
24 scribes, or announces the availability of—



1 “(A) any credit, debit, or charge card, or simi-
2 lar financial instrument or account, provided by or
3 through an arrangement with any person or organi-
4 zation not authorized to mail at the rates for mail
5 under former section 4452(b) or 4452(c) of this
6 title;

7 “(B) any insurance policy, unless the organiza-
8 tion which promotes the purchase of such policy is
9 authorized to mail at the rates for mail under
10 former section 4452(b) or 4452(c) of this title, the
11 policy is designed for and primarily promoted to the
12 members, donors, supporters, or beneficiaries of the
13 organization, and the coverage provided by the policy
14 is not generally otherwise commercially available;

15 “(C) any travel arrangement, unless the organi-
16 zation which promotes the arrangement is author-
17 ized to mail at the rates for mail under former sec-
18 tion 4452(b) or 4452(c) of this title, the travel con-
19 tributes substantially (aside from the cultivation of
20 members, donors, or supporters, or the acquisition of
21 income or funds) to one or more of the purposes
22 which constitutes the basis for the organization’s au-
23 thorization to mail at such rates, and the arrange-
24 ment is designed for and primarily promoted to the



1 members, donors, supporters, or beneficiaries of the
2 organization; or

3 “(D) any product or service (other than any to
4 which subparagraph (A), (B), or (C) relates), if—

5 “(i) the sale of such product or the pro-
6 viding of such service is not substantially re-
7 lated (aside from the need, on the part of the
8 organization promoting such product or service,
9 for income or funds or the use it makes of the
10 profits derived) to the exercise or performance
11 by the organization of one or more of the pur-
12 poses constituting the basis for the organiza-
13 tion’s authorization to mail at such rates; or

14 “(ii) the mail matter involved is part of a
15 cooperative mailing (as defined under regula-
16 tions of the Postal Service) with any person or
17 organization not authorized to mail at the rates
18 for mail under former section 4452(b) or
19 4452(c) of this title;

20 except that—

21 “(I) any determination under clause (i)
22 that a product or service is not substantially re-
23 lated to a particular purpose shall be made
24 under regulations which shall be prescribed by
25 the Postal Service and which shall be consistent



1 with standards established by the Internal Rev-
2 enue Service and the courts with respect to sub-
3 sections (a) and (c) of section 513 of the Inter-
4 nal Revenue Code of 1986;

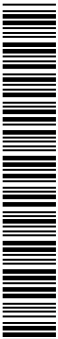
5 “(II) clause (i) shall not apply if the prod-
6 uct involved is a periodical publication described
7 in subsection (l)(2) (including a subscription to
8 receive any such publication); and

9 “(III) clause (i) shall not apply to space
10 advertising in mail matter that otherwise quali-
11 fies for rates under former section 4452(b) or
12 4452(c) of this title, and satisfies the content
13 requirements established by the Postal Service
14 for periodical publications.

15 “(2) Matter shall not be excluded from being mail
16 at the rates for mail under former section 4452(b) or
17 4452(c) of this title, by an organization authorized to mail
18 at those rates solely because—

19 “(A) such matter contains, but is not primarily
20 devoted to, acknowledgements of organizations or in-
21 dividuals who have made donations to the authorized
22 organization; or

23 “(B) such matter contains, but is not primarily
24 devoted to, references to and a response card or
25 other instructions for making inquiries concerning



1 services or benefits available as a result of member-
2 ship in the authorized organization: *Provided*, That
3 advertising, promotional, or application materials
4 specifically concerning such services or benefits are
5 not included.

6 “(3)(A) Upon request, an organization authorized to
7 mail at the rates for mail under former section 4452(b)
8 or 4452(c) of this title shall furnish evidence to the Postal
9 Service concerning the eligibility of any of its mail matter
10 or mailings to be sent at those rates.

11 “(B) The Postal Service shall establish procedures to
12 carry out this paragraph, including procedures for mailer
13 certification of compliance with the conditions specified in
14 paragraph (1)(D) or subsection (l), as applicable, and ver-
15 ification of such compliance.

16 “(4)(A) Notwithstanding any other provision of this
17 section or any rule or regulation of the Postal Service, but
18 subject to subparagraph (C), in the case of mail matter
19 sent (or proposed to be sent) by or on behalf of an author-
20 ized organization having a contractual or any other busi-
21 ness relationship with an entity described in subparagraph
22 (B)(ii), rates of postage under former section 4452(b) or
23 4452(c) of this title shall apply if those rates would apply
24 in the case of identical mail matter sent by such organiza-
25 tion absent such relationship.



1 “(B) For purposes of this paragraph—

2 “(i) the term ‘authorized organization’ means
3 an organization authorized to mail at the rates for
4 mail under former section 4452(b) or 4452(c) of this
5 title; and

6 “(ii) an entity described in this clause is any or-
7 ganization or other person that is not an authorized
8 organization.

9 “(C) This paragraph does not authorize an entity de-
10 scribed in subparagraph (B)(ii) to advertise, promote,
11 offer, or, for a fee or consideration, recommend, describe,
12 or announce the availability of, any of its products or serv-
13 ices at the rates of postage under former section 4452(b)
14 or 4452(c) of this title.

15 “(j)(1) No person or organization shall mail, or cause
16 to be mailed by contractual agreement or otherwise, at the
17 rates for mail under former section 4452(b) or 4452(c)
18 of this title, any matter to which those rates do not apply.

19 “(2) The Postal Service may assess a postage defi-
20 ciency in the amount of the unpaid postage against any
21 person or organization which violates paragraph (1) of this
22 subsection. This assessment shall be deemed the final deci-
23 sion of the Postal Service, unless the party against whom
24 the deficiency is assessed appeals it in writing within 30
25 days to the postmaster of the office where the mailing was

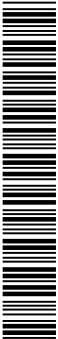


1 entered. Such an appeal shall be considered by an official
2 designated by the Postal Service, other than the post-
3 master of the office where the mailing was entered, who
4 shall issue a decision as soon as practicable. This decision
5 shall be deemed final unless the party against whom the
6 deficiency was assessed appeals it in writing within 30
7 days to a further reviewing official designated by the Post-
8 al Service, who shall issue the final decision on the matter.

9 “(3) The Postal Service shall maintain procedures for
10 the prompt collection of postage deficiencies arising from
11 the violation of paragraph (1) of this subsection, and may
12 in its discretion, follow the issuance of a final decision re-
13 garding a deficiency under paragraph (2) of this sub-
14 section deduct the amount of that deficiency incurred dur-
15 ing the previous 12 months from any postage accounts or
16 other monies of the violator in its possession.

17 “(k) In the administration of this section, the term
18 ‘advertising’, as used in former section 4358(j)(2) of this
19 title, does not include the publisher’s own advertising in
20 a publication published by the official highway or develop-
21 ment agency of a State.

22 “(l)(1) In the administration of this section, the rates
23 for mail under former section 4452(b) or 4452(c) of this
24 title shall not apply to mail consisting of products, unless
25 such products—



1 “(A) were received by the organization as gifts
2 or contributions; or

3 “(B) are low cost articles (as defined by section
4 513(h)(2) of the Internal Revenue Code of 1986).

5 “(2) Paragraph (1) shall not apply with respect to
6 a periodical publication of a qualified nonprofit organiza-
7 tion.

8 “(m) In the administration of this section, matter
9 that satisfies the circulation standards for requester publi-
10 cations shall not be excluded from being mailed at the
11 rates for mail under former section 4358 solely because
12 such matter is designed primarily for free circulation or
13 for circulation at nominal rates, or fails to meet the re-
14 quirements of former section 4354(a)(5).

15 **“§ 3615. Adjusting free rates**

16 “If Congress fails to appropriate an amount author-
17 ized under section 2401(c) of this title for any class of
18 mail sent free of postage under any of sections 3217 or
19 3403–3406, the rate for that class may be adjusted in ac-
20 cordance with the provisions of this subchapter so that the
21 increased revenues received from the users of such class
22 will equal the amount for that class that the Congress was
23 to appropriate.



1 **“§ 3616. Reduced rates for voter registration pur-**
2 **poses**

3 “The Postal Service shall make available to a State
4 or local voting registration official the rate for any class
5 of mail that is available to a qualified nonprofit organiza-
6 tion under section 3614 for the purpose of making a mail-
7 ing that the official certifies is required or authorized by
8 the National Voter Registration Act of 1993.

9 **“SUBCHAPTER III—RATES FOR PRODUCTS IN**
10 **THE COMPETITIVE CATEGORY OF MAIL**

11 **“§ 3621. Applicability; definitions and updates**

12 “(a) APPLICABILITY.—Subject to subsections (c)(2)
13 and (d), this subchapter shall apply with respect to—

14 “(1) priority mail;

15 “(2) expedited mail;

16 “(3) mailgrams;

17 “(4) international mail; and

18 “(5) parcel post.

19 “(b) DEFINITION.—For purposes of this subchapter,
20 the term ‘costs attributable’, as used with respect to a
21 product, means the direct and indirect postal costs attrib-
22 utable to such product.

23 “(c) RULE OF CONSTRUCTION.—

24 “(1) IN GENERAL.—Mail matter referred to in
25 subsection (a) shall, for purposes of this subchapter,
26 be considered to have the meaning given to such



1 mail matter under the mail classification schedule
2 (as last in effect before the date of enactment of the
3 Postal Accountability and Enhancement Act).

4 “(2) UPDATES.—Subject to subsection (d), the
5 Postal Regulatory Commission shall, whenever ne-
6 cessitated by a change under section 3643 or 3644,
7 prescribe new lists of products to which this sub-
8 chapter applies. The revised lists shall indicate how
9 and when any previous lists (including the list under
10 subsection (a)) are superseded, and shall be pub-
11 lished in the Federal Register.

12 “(d) LIMITATION.—Notwithstanding any other provi-
13 sion of this section, nothing in this subchapter shall be
14 considered to apply with respect to any product then cur-
15 rently in the market-dominant category of mail.

16 **“§ 3622. Action of the Governors**

17 “(a) AUTHORITY TO ESTABLISH RATES.—The Gov-
18 ernors, with the written concurrence of a majority of all
19 of the Governors then holding office, shall establish rates
20 for products in the competitive category of mail in accord-
21 ance with the requirements of this subchapter and the
22 policies of this title.

23 “(b) PROCEDURES.—Paragraphs (1)–(2)(A) of sec-
24 tion 3612(b) shall apply with respect to rates and deci-
25 sions under this section, except that, for purposes of this



1 section, subparagraph (A) of section 3612(b)(2) shall be
2 applied by substituting ‘by such date before the effective
3 date of any new rates as the Governors consider appro-
4 priate’ for the date that would otherwise apply under such
5 subparagraph.

6 “(c) EFFECTIVE DATE.—The authority under this
7 subchapter shall be available beginning on the date of en-
8 actment of this subchapter, except that in no event may
9 any rate established under this subchapter take effect be-
10 fore the date on which the Postal Service submits its first
11 report to the Postal Regulatory Commission in accordance
12 with section 3652(a).

13 **“§ 3623. Provisions applicable to competitive prod-**
14 **ucts individually**

15 “(a) RATES TO MEET COSTS ATTRIBUTABLE.—

16 “(1) IN GENERAL.—Rates for products in the
17 competitive category of mail shall be established in
18 a manner such that each such product shall, in each
19 year, bear the costs attributable to such product for
20 such year.

21 “(2) WAIVER AUTHORITY.—

22 “(A) IN GENERAL.—Paragraph (1) shall
23 not apply to the rates for a product below the
24 first-level subordinate units thereof (whether
25 designated as a subclass or otherwise), if or to



1 the extent that the Postal Regulatory Commis-
2 sion determines, in a proceeding conducted
3 under subparagraph (B), that the application of
4 such paragraph would be impracticable.

5 “(B) PROCEDURES FOR REVIEW.—In
6 order to carry out this paragraph, the Commis-
7 sion shall, in proceedings conducted in accord-
8 ance with regulations which the Commission
9 shall prescribe, review rates for products—

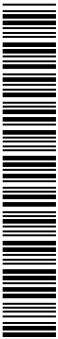
10 “(i) on its own motion; or

11 “(ii) on the granting by the Commis-
12 sion, in its sole discretion, of a petition for
13 such review filed by an interested party.

14 “(b) TREATMENT OF SHORTFALLS.—If revenues de-
15 rived from a competitive product in any year are not suffi-
16 cient to meet the costs attributable to such product for
17 such year, the shortfall shall be made up in accordance
18 with section 3624(c)(1).

19 “(c) MANDATORY DISCONTINUANCE OF LOSS-MAK-
20 ING PRODUCTS.—

21 “(1) IN GENERAL.—If a competitive product
22 persistently fails to substantially cover the costs at-
23 tributable to such product, the Postal Regulatory
24 Commission may, in accordance with procedures
25 which the Commission shall prescribe and after con-



1 sidering all relevant circumstances, order the Postal
2 Service to discontinue such product permanently.

3 “(2) PROCEDURES.—The procedures prescribed
4 to carry out this subsection—

5 “(A) shall provide the opportunity for a
6 hearing on the record under sections 556 and
7 557 of title 5 to the Postal Service, users of the
8 mail, and an officer of the Commission who
9 shall be required to represent the interests of
10 the general public;

11 “(B) may, in order to conduct its pro-
12 ceedings with utmost expedition consistent with
13 procedural fairness to the parties, adopt rules
14 which provide for—

15 “(i) the advance submission of written
16 direct testimony;

17 “(ii) the conduct of prehearing con-
18 ferences to define issues, and for other
19 purposes to insure orderly and expeditious
20 proceedings;

21 “(iii) discovery both from the Postal
22 Service and the parties to the proceedings;

23 “(iv) limitation of testimony; and



1 “(v) the conduct of the entire pro-
2 ceedings off the record with the consent of
3 the parties; and

4 “(C) shall require that any final decision
5 be accompanied by a statement setting forth
6 the reasons therefor.

7 “(3) PERSISTENTLY AND SUBSTANTIALITY.—
8 The Commission shall by regulation establish the
9 criteria to be used in making any determination
10 under this subsection as to whether a product per-
11 sistentlly fails to substantially cover the costs attrib-
12 utable to such product.

13 **“§ 3624. Provisions applicable to competitive prod-**
14 **ucts collectively**

15 “(a) COST-COVERAGE REQUIREMENT.—

16 “(1) IN GENERAL.—Rates for competitive prod-
17 ucts shall be established in a manner such that the
18 cost-coverage ratio for all competitive products (col-
19 lectively) shall, for each year to which this sub-
20 chapter applies (as referred to in section 3622(c)),
21 be at least equal to the cost-coverage ratio for such
22 year for all competitive and market-dominant prod-
23 ucts (collectively).



1 “(2) COST-COVERAGE RATIO.—For purposes of
2 this section, the term ‘cost-coverage ratio’ means,
3 for the products and year involved, the ratio that—

4 “(A) total revenues from those products in
5 such year, bears to

6 “(B) total costs attributable to those prod-
7 ucts in such year.

8 “(b) ADJUSTMENT FOR SPECIAL CIRCUMSTANCES.—

9 “(1) IN GENERAL.—The Postal Regulatory
10 Commission shall, by rule, establish guidelines for
11 the adjustment of ratios under this section to com-
12 pensate appropriately for any significant and objec-
13 tive differences in the nature and composition of
14 costs attributable to competitive and market-domi-
15 nant products, respectively. Such guidelines shall
16 provide for the exclusion (by pass through, as de-
17 fined under such rules) of—

18 “(A) purchased international transpor-
19 tation costs; and

20 “(B) such other costs attributable as may,
21 in the judgment of the Commission, be uniquely
22 or disproportionately associated with any par-
23 ticular product or products or with either cat-
24 egory of products.

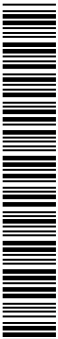


1 “(2) PURCHASED INTERNATIONAL TRANSPOR-
2 TATION COSTS DEFINED.—For purposes of this sub-
3 section, the term ‘purchased international transpor-
4 tation costs’ means costs classifiable under cost seg-
5 ment 14.2, as defined for purposes of the Postal
6 Service’s Cost and Revenue Analysis Report for Fis-
7 cal Year 1997.

8 “(3) FACTORS TO BE CONSIDERED IN IDENTI-
9 FYING OTHER COSTS FOR SPECIAL TREATMENT.—In
10 making any decision under paragraph (1)(B), the
11 Commission shall take into consideration differences
12 in purchased transportation costs, operational costs
13 attributable to a single product (such as costs asso-
14 ciated with Priority Mail Processing Centers), and
15 such other factors as the Commission considers ap-
16 propriate.

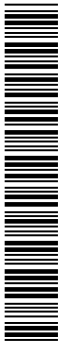
17 “(c) SPECIAL RULES TO MAKE UP FOR CERTAIN
18 SHORTFALLS.—

19 “(1) SUBTRACTION TO MAKE UP FOR ANY
20 SHORTFALL DESCRIBED IN SECTION 3623(b).—In
21 any year in which a shortfall described in section
22 3623(b) occurs in the case of any competitive prod-
23 uct, an amount equal to the amount of such shortfall
24 shall, for purposes of determining whether the re-
25 quirement under subsection (a) has been satisfied in



1 such year, be subtracted from total revenues derived
2 from all competitive products (collectively) in such
3 year. Nothing in the preceding sentence shall be con-
4 sidered to permit or require that the same amount
5 be concurrently subtracted from total revenues de-
6 rived from competitive and market-dominant prod-
7 ucts (collectively).

8 “(2) SUBTRACTION TO MAKE UP FOR ANY
9 SHORTFALL IN CONTRIBUTIONS TOWARD INSTITU-
10 TIONAL COSTS IN A PREVIOUS YEAR.—If, in any
11 year, the requirement under subsection (a) is not
12 met (determined applying the provisions of sub-
13 section (b), paragraph (1), and this paragraph based
14 on any failure to satisfy subsection (a) in the pre-
15 vious year), the difference between the total revenues
16 considered to have been derived from competitive
17 products in the year involved (determined applying
18 such provisions), and the minimum amount of total
19 revenues from competitive products which would
20 have been required in order to satisfy subsection (a)
21 (determined applying such provisions), shall, for pur-
22 poses of determining whether the requirement under
23 subsection (a) is met in the following year, be sub-
24 tracted from total revenues derived from competitive
25 products (collectively) in such following year. Noth-



1 ing in the preceding sentence shall be considered to
2 permit or require that the same amount be concu-
3 rently subtracted from total revenues derived from
4 competitive and market-dominant products (collec-
5 tively).

6 “(d) PHASE-IN AUTHORITY.—If necessary in order to
7 afford the Postal Service an opportunity to increase effi-
8 ciency to competitive market levels, the Postal Regulatory
9 Commission may, by written determination made in con-
10 formance with procedures described in section 3623(c)(2),
11 provide for the phase-in of subsection (a) over the course
12 of a period not to exceed 5 years from the date as of which
13 the first rate established under this subchapter takes ef-
14 fect. If the Commission grants relief under this subsection,
15 it shall annually review the continuing need for such relief
16 and, based on its review, may provide for the appropriate
17 modification or termination thereof in a succeeding year
18 within that phase-in period.

19 **“§ 3625. Assumed Federal income tax on competitive**
20 **products income**

21 “(a) DEFINITIONS.—For purposes of this section—

22 “(1) the term ‘assumed Federal income tax on
23 competitive products income’ means the net income
24 tax that would be imposed by chapter 1 of the Inter-
25 nal Revenue Code of 1986 on the Postal Service’s



1 assumed taxable income from competitive products
2 for the year; and

3 “(2) the term ‘assumed taxable income from
4 competitive products’, with respect to a year, refers
5 to the amount representing what would be the tax-
6 able income of a corporation under the Internal Rev-
7 enue Code of 1986 for the year, if—

8 “(A) the only activities of such corporation
9 were the activities of the Postal Service allo-
10 cable under section 2011(h) to competitive
11 products; and

12 “(B) the only assets held by such corpora-
13 tion were the assets of the Postal Service allo-
14 cable under section 2011(h) to such activities.

15 “(b) COMPUTATION AND TRANSFER REQUIRE-
16 MENTS.—The Postal Service shall, for each year beginning
17 with the year in which occurs the deadline for the Postal
18 Service’s first report to the Postal Regulatory Commission
19 under section 3652(a)—

20 “(1) compute its assumed Federal income tax
21 on competitive products income for such year; and

22 “(2) transfer from the Competitive Products
23 Fund to the Postal Service Fund the amount of that
24 assumed tax, subject to subsection (c).



1 “(c) REDUCTION DUE TO STATUTORY OR BUSINESS
2 NEEDS.—

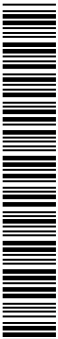
3 “(1) POSTAL DETERMINATION.—If necessary
4 because of statutory or business needs, the Gov-
5 ernors may make an appropriate reduction in the
6 amount to be transferred under this section for the
7 year involved.

8 “(2) AUTHORITY TO MODIFY.—Should the
9 Commission find that the Governors’ determination
10 is not in conformance with the requirements of this
11 section—

12 “(A) the Commission shall first consult
13 with the Governors to the extent necessary to
14 bring about the modifications that the Commis-
15 sion considers necessary to achieve conform-
16 ance; and

17 “(B) any differences remaining after con-
18 sultation shall be resolved by the Commission,
19 and the Commission shall in all cases have the
20 final authority for determining the appropriate
21 amount of any reduction under this subsection
22 for a year (if any).

23 “(3) REGULATIONS.—The Commission shall
24 prescribe any regulations necessary to carry out this
25 subsection.



1 “(d) DEADLINE FOR TRANSFERS.—Any transfer re-
2 quired to be made under this section for a year shall be
3 due on or before the January 15th next occurring after
4 the close of such year.

5 “SUBCHAPTER IV—MARKET TESTS OF
6 EXPERIMENTAL PRODUCTS
7 **“§ 3631. Market tests of experimental market-domi-**
8 **nant products**

9 “(a) AUTHORITY.—

10 “(1) IN GENERAL.—The Postal Service may
11 conduct market tests of experimental market-domi-
12 nant products in accordance with this section.

13 “(2) PROVISIONS WAIVED.—A product shall
14 not, while it is being tested under this section, be
15 subject to the requirements of section 3645 (relating
16 to changes in the classification of market-dominant
17 products).

18 “(b) CONDITIONS.—A product may not be tested
19 under this section unless it satisfies each of the following:

20 “(1) SIGNIFICANTLY DIFFERENT PRODUCT.—
21 The product is, from the viewpoint of mail users,
22 significantly different from all products offered by
23 the Postal Service within the 2-year period preceding
24 the start of the test.



1 “(2) DOLLAR-AMOUNT LIMITATION.—The total
2 revenues that are anticipated, or in fact received, by
3 the Postal Service from such product do not exceed
4 \$10,000,000 in any year, subject to section 3634.

5 “(3) MARKET DISRUPTION.—The introduction
6 or continued offering of the product will not create
7 an unfair or otherwise inappropriate competitive ad-
8 vantage for the Postal Service, particularly in regard
9 to small business concerns (as defined under section
10 3636).

11 “(4) CORRECT CATEGORIZATION.—The testing
12 of the product under this section is consistent with
13 the criteria under section 3641(b)(2).

14 “(c) NOTICE.—At least 30 days before initiating a
15 market test under this section, the Postal Service shall
16 file with the Postal Regulatory Commission and publish
17 in the Federal Register a notice setting out the basis for
18 the Postal Service’s determination that the market test is
19 covered by this section and describing the nature and
20 scope of the market test.

21 “(d) DURATION.—

22 “(1) IN GENERAL.—A market test of a product
23 under this section may be conducted over a period
24 of not to exceed 24 months.



1 “(2) EXTENSION AUTHORITY.—If necessary in
2 order to determine the feasibility or desirability of a
3 product being tested under this section, the Postal
4 Regulatory Commission may, upon written applica-
5 tion of the Postal Service (filed not later than 60
6 days before the date as of which the testing of such
7 product would otherwise be scheduled to terminate
8 under paragraph (1)), extend the testing of such
9 product for not to exceed an additional 12 months.

10 “(e) CANCELLATION.—If the Postal Regulatory Com-
11 mission at any time determines that a market test under
12 this section fails, with respect to any particular product,
13 to meet one or more of the conditions set forth in sub-
14 section (b), it may issue any order that would be allowable
15 under section 3662(c)(6). A determination under this sub-
16 section shall be made in accordance with such procedures
17 as the Commission shall by regulation prescribe.

18 **“§ 3632. Market tests of experimental competitive**
19 **products**

20 “(a) AUTHORITY.—

21 “(1) IN GENERAL.—The Postal Service may
22 conduct market tests of experimental competitive
23 products in accordance with this section.

24 “(2) PROVISIONS WAIVED.—Any noncompliance
25 with section 3623(a) (relating to costs-attributable



1 requirement) on the part of a product shall not, if
2 it occurs while such product is being tested under
3 this section, be taken into account for purposes of
4 any sanction or other action that might otherwise be
5 permitted or required under any of the following:

6 “(A) Section 3662(c)(3) (relating to order-
7 ing the adjustment of rates to lawful levels pur-
8 suant to a rate complaint).

9 “(B) Section 3623(c) (relating to manda-
10 tory discontinuance of loss-making products).

11 “(C) Section 3653(e) (relating to use of
12 profits).

13 A product shall not, while it is being tested under
14 this section, be subject to the requirements of sec-
15 tion 3643 (relating to new competitive products).

16 “(3) PROVISIONS NOT WAIVED.—Nothing in
17 this section shall be considered to permit or require
18 the exclusion of any costs or revenues that are at-
19 tributable to a product that is being tested under
20 this section from any determination under section
21 3624 (relating to provisions applicable to competitive
22 products collectively).

23 “(b) CONDITIONS.—A product may not be tested
24 under this section unless it satisfies each of the following:



1 “(1) SIGNIFICANTLY DIFFERENT PRODUCT.—

2 The product is, from the viewpoint of mail users,
3 significantly different from all products offered by
4 the Postal Service within the 2-year period preceding
5 the start of the test.

6 “(2) DOLLAR-AMOUNT LIMITATION.—The total
7 revenues that are anticipated, or in fact received, by
8 the Postal Service from such product do not exceed
9 \$10,000,000 in any year, subject to section 3634.

10 “(3) MARKET DISRUPTION.—The introduction
11 or continued offering of the product will not create
12 an unfair or otherwise inappropriate competitive ad-
13 vantage for the Postal Service, particularly in regard
14 to small business concerns (as defined under section
15 3636).

16 “(4) CORRECT CATEGORIZATION.—The testing
17 of the product under this section is consistent with
18 the criteria under section 3641(b)(2).

19 “(c) NOTICE.—

20 “(1) IN GENERAL.—At least 30 days before ini-
21 tiating a market test under this section, the Postal
22 Service shall file with the Postal Regulatory Com-
23 mission and publish in the Federal Register a notice
24 setting out the basis for the Postal Service’s deter-
25 mination that the market test is covered by this sec-



1 tion and describing the nature and scope of the mar-
2 ket test.

3 “(2) SAFEGUARDS.—The provisions of section
4 3604(g) shall be available with respect to any infor-
5 mation required to be filed under paragraph (1) to
6 the same extent and in the same manner as in the
7 case of any matter described in section 3604(g)(1).
8 Nothing in paragraph (1) shall be considered to per-
9 mit or require the publication of any information as
10 to which confidential treatment is accorded under
11 the preceding sentence (subject to the same excep-
12 tion as set forth in section 3604(g)(3)).

13 “(d) DURATION.—

14 “(1) IN GENERAL.—A market test of a product
15 under this section may be conducted over a period
16 of not to exceed 24 months.

17 “(2) EXTENSION AUTHORITY.—If necessary in
18 order to determine the feasibility or desirability of a
19 product being tested under this section, the Postal
20 Regulatory Commission may, upon written applica-
21 tion of the Postal Service (filed not later than 60
22 days before the date as of which the testing of such
23 product would otherwise be scheduled to terminate
24 under paragraph (1)), extend the testing of such
25 product for not to exceed an additional 12 months.



1 “(e) CANCELLATION.—If the Postal Regulatory Com-
2 mission at any time determines that a market test under
3 this section fails, with respect to any particular product,
4 to meet one or more of the conditions set forth in sub-
5 section (b), it may issue any order that would be allowable
6 under section 3662(c)(6). A determination under this sub-
7 section shall be made in accordance with such procedures
8 as the Commission shall by regulation prescribe.

9 **“§ 3633. Large-scale market tests**

10 “(a) AUTHORITY.—The Postal Service may, in ac-
11 cordance with this section, conduct—

12 “(1) market tests involving any experimental
13 market-dominant product that would be allowable
14 under section 3631 but for subsection (b)(2) thereof;
15 and

16 “(2) market tests involving any experimental
17 competitive product that would be allowable under
18 section 3632 but for subsection (b)(2) thereof.

19 “(b) CONDITION.—Notwithstanding any other provi-
20 sion of this section, a product may not be tested under
21 this section unless the total revenues that are anticipated,
22 or in fact received, by the Postal Service from such prod-
23 uct do not exceed \$100,000,000 in any year, subject to
24 section 3634.



1 “(c) PROVISIONS WAIVED.—Section 3631(a)(2) shall
2 apply with respect to an experimental market-dominant
3 product being tested under this section, and section
4 3632(a)(2) shall apply with respect to an experimental
5 competitive product being tested under this section, as if
6 such test were instead being conducted section 3631 or
7 3632, as the case may be.

8 “(d) REGULATIONS.—The Postal Regulatory Com-
9 mission shall by regulation establish rules for the conduct
10 of market tests under this section, including rules for the
11 termination of any such test. In adopting rules under this
12 subsection, the Commission shall consider such matters
13 as—

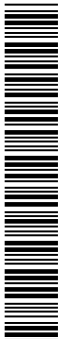
14 “(1) the Postal Service’s interest in the develop-
15 ment and testing of new products with a minimum
16 of regulatory impediments; and

17 “(2) the public interest in preventing unfair or
18 otherwise inappropriate competition.

19 “(e) DURATION.—

20 “(1) IN GENERAL.—A market test of a product
21 under this section may be conducted over a period
22 of not to exceed 24 months.

23 “(2) EXTENSION AUTHORITY.—If necessary in
24 order to determine the feasibility or desirability of a
25 product being tested under this section, the Postal



1 Regulatory Commission may, upon written applica-
2 tion of the Postal Service (filed not later than 60
3 days before the date as of which the testing of such
4 product would otherwise be scheduled to terminate
5 under paragraph (1)), extend the testing of such
6 product for not to exceed an additional 12 months.

7 **“§ 3634. Adjustment for inflation**

8 “For purposes of each year following the year in
9 which occurs the deadline for the Postal Service’s first re-
10 port to the Postal Regulatory Commission under section
11 3652(a), the dollar amount contained in sections
12 3631(b)(2), 3632(b)(2), and 3633(b), respectively, shall
13 be adjusted in the same manner and to the same extent
14 as adjustments are provided for under the procedures used
15 to adjust revenue amounts under section 3613, except that
16 any amount so adjusted that is not a multiple of \$100
17 shall be rounded to the nearest multiple of \$100.

18 **“§ 3635. Conversion to permanence**

19 “A request to have an experimental product under
20 this chapter converted to a permanent one—

21 “(1) shall be made and acted on in conformance
22 with applicable provisions of subchapter V; and

23 “(2) shall be made by the Postal Service.



1 **“§ 3636. Definition of a small business concern**

2 “The criteria used in defining small business con-
3 cerns or otherwise categorizing business concerns as small
4 business concerns shall, for purposes of sections 3631 and
5 3632, be established by the Postal Regulatory Commission
6 in conformance with the requirements of section 3 of the
7 Small Business Act.

8 **“§ 3637. Effective date**

9 “Market tests under this subchapter may be con-
10 ducted in any year beginning with the first year in which
11 occurs the deadline for the Postal Service’s first report
12 to the Postal Regulatory Commission under section
13 3652(a).

14 **“SUBCHAPTER V—PROVISIONS RELATING TO**
15 **THE CLASSIFICATION OF PRODUCTS**

16 **“§ 3641. Criteria for the identification of market-dom-**
17 **inant and competitive products**

18 “(a) IN GENERAL.—Except as provided in sub-
19 chapter IV, no product may be offered which has not been
20 assigned to the market-dominant or competitive category
21 of mail (as appropriate) either—

22 “(1) under this subchapter; or

23 “(2) by or under any other provision of law.

24 “(b) CRITERIA.—

25 “(1) IN GENERAL.—All determinations as to
26 whether a particular product belongs in the market-



1 dominant or competitive category of mail, shall be
2 made in conformance with paragraph (2).

3 “(2) CHARACTERISTICS BY CATEGORY.—The
4 market-dominant category of products shall consist
5 of each product in the sale of which the Postal Serv-
6 ice exercises sufficient market power that it can ef-
7 fectively set the price of such product substantially
8 above costs, raise prices significantly, decrease qual-
9 ity, or decrease output, without risk of losing busi-
10 ness to other firms offering similar products. The
11 competitive category of products shall consist of all
12 other products.

13 “(c) INITIAL AND UPDATED LISTS.—The respective
14 products which, as of any particular date, are within the
15 market-dominant or competitive category of mail shall be
16 as identified under sections 3611 and 3621, respectively.

17 **“§ 3642. New market-dominant products**

18 “(a) IN GENERAL.—

**“For provisions relating to changes in the mail
classification schedule, as it relates to market-domi-
nant products, see sections 3645–3648(a).**

19 “(b) TRANSFERS.—Nothing in sections 3645–3648
20 shall be considered to apply with respect to any matter
21 covered by section 3644.

22 **“§ 3643. New competitive products**

23 “(a) AUTHORITY.—



1 “(1) IN GENERAL.—The Postal Service may, in
2 accordance with this section, offer a new competitive
3 product (including by the conversion of an experi-
4 mental product) and, with respect to competitive
5 products only, otherwise make changes in the mail
6 classification schedule.

7 “(2) TRANSFERS.—Nothing in this section shall
8 be considered to apply with respect to any matter
9 covered by section 3644.

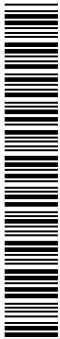
10 “(b) CONDITIONS.—An action under this section may
11 not be taken unless it satisfies each of the following:

12 “(1) CRITERIA.—To the extent that the classi-
13 fication of a product is involved, the action would be
14 consistent with the criteria under section
15 3641(b)(2).

16 “(2) COSTS ATTRIBUTABLE.—To the extent
17 that the establishment of a rate for a competitive
18 product is involved, the requirement under section
19 3623(a) would be met.

20 “(c) NOTICE.—

21 “(1) IN GENERAL.—At least 20 days before it
22 offers a new competitive product or otherwise makes
23 any change under this section in the mail classifica-
24 tion schedule, the Postal Service shall file with the
25 Postal Regulatory Commission and publish in the



1 Federal Register a notice setting out the basis for
2 the Postal Service's determination that the product
3 satisfies each of the conditions under subsection (b).

4 “(2) SAFEGUARDS.—The provisions of section
5 3604(g) shall be available with respect to any infor-
6 mation required to be filed under paragraph (1) to
7 the same extent and in the same manner as in the
8 case of any matter described in section 3604(g)(1).
9 Nothing in paragraph (1) shall be considered to per-
10 mit or require the publication of any information as
11 to which confidential treatment is accorded under
12 the preceding sentence (subject to the same excep-
13 tion as set forth in section 3604(g)(3)).

14 “(d) CANCELLATION.—If the Postal Regulatory
15 Commission determines that an action proposed to be
16 taken under this section fails to meet either of the condi-
17 tions set forth in subsection (b), the Commission shall, be-
18 fore the proposed action is scheduled to be taken, order
19 that the proposed action be canceled. A determination
20 under this subsection shall be made in accordance with
21 such procedures as the Commission shall by regulation
22 prescribe.

23 “(e) COMPLAINTS.—If the Postal Regulatory Com-
24 mission receives a complaint from an interested party (in-
25 cluding an officer of the Commission representing the in-



1 terests of the general public) alleging that the condition
2 under paragraph (1) or (2) of subsection (b) has not been
3 met, the Commission shall act on such complaint in ac-
4 cordance with section 3662.

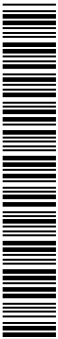
5 **“§ 3644. Transfers of products from the market-domi-**
6 **nant category of mail**

7 “(a) IN GENERAL.—Upon request of the Postal Serv-
8 ice or users of the mails, or upon its own initiative, the
9 Postal Regulatory Commission may, after proceedings
10 conducted in conformity with subsection (d), transfer 1
11 or more products from the market-dominant category of
12 mail to the competitive category of mail.

13 “(b) CRITERIA.—

14 “(1) IN GENERAL.—A decision under this sec-
15 tion shall be made in accordance with the policies of
16 this title and the criteria set forth in section
17 3641(b)(2).

18 “(2) EXCLUSION OF PRODUCTS COVERED BY
19 POSTAL MONOPOLY.—A product covered by the post-
20 al monopoly shall not be subject to transfer under
21 this section from the market-dominant category of
22 mail. For purposes of the preceding sentence, the
23 term ‘product covered by the postal monopoly’
24 means any product the conveyance or transmission
25 of which is reserved to the United States under sec-



1 tion 1696 of title 18, subject to the same exception
2 as set forth in the last sentence of section 409(d)(1).

3 “(3) ADDITIONAL CONSIDERATIONS.—In mak-
4 ing any decision under this section, due regard shall
5 be given to—

6 “(A) the availability and nature of enter-
7 prises in the private sector engaged in the deliv-
8 ery of the product involved;

9 “(B) the views of those who use the prod-
10 uct involved on the appropriateness of the pro-
11 posed action; and

12 “(C) the likely impact of the proposed ac-
13 tion on small business concerns (within the
14 meaning of section 3636).

15 “(c) TRANSFERS OF SUBCLASSES AND OTHER SUB-
16 ORDINATE UNITS ALLOWABLE.—Nothing in this title
17 shall be considered to prevent transfers under this section
18 from being made by reason of the fact that they would
19 involve only some (but not all) of the subclasses or other
20 subordinate units of the class of mail or type of postal
21 service involved (without regard to satisfaction of min-
22 imum quantity requirements standing alone).

23 “(d) REQUIREMENTS.—Proceedings required to be
24 conducted in accordance with this subsection—



1 “(1) shall provide the opportunity for a hearing
2 on the record under sections 556 and 557 of title 5
3 to the Postal Service, users of the mail, and an offi-
4 cer of the Postal Regulatory Commission who shall
5 be required to represent the interests of the general
6 public;

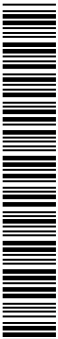
7 “(2) may include rules of proceedings that pro-
8 vide for any procedure or other matter listed under
9 section 3623(c)(2); and

10 “(3) shall require that any final decision be ac-
11 companied by a statement setting forth the reasons
12 therefor.

13 “(e) PRINTING AND NOTICE REQUIREMENTS.—The
14 Commission’s decision and the record of the Commission’s
15 hearings shall be made generally available at the time the
16 decision is issued and shall be printed and made available
17 for sale by the Public Printer within 10 days following
18 the day the decision is issued.

19 “(f) APPELLATE REVIEW.—A final decision under
20 this section may be appealed in the manner provided
21 under section 3648(a), except that, for purposes of this
22 subsection, subsection (a) of such section shall be
23 applied—

24 “(1) by substituting ‘A final decision by the
25 Commission under section 3644’ for ‘A decision of



1 the Governors to approve, allow under protest, or
2 modify the recommended decision of the Postal Reg-
3 ulatory Commission on a request made under section
4 3645’;

5 “(2) by substituting ‘an aggrieved party who
6 appeared in the proceedings under section 3644(d)’
7 for ‘an aggrieved party who appeared in the pro-
8 ceedings under section 3646(a)’; and

9 “(3) by disregarding ‘and the Governors’ in the
10 second sentence.

11 **“§ 3645. Changes in the classification of market-domi-**
12 **nant products**

13 “(a) IN GENERAL.—The Postal Service may from
14 time to time request that the Postal Regulatory Commis-
15 sion submit, or the Commission may submit to the Gov-
16 ernors on its own initiative, a recommended decision on
17 any changes in the mail classification schedule—

18 “(1) in connection with the offering of a new
19 market-dominant product (including by the conver-
20 sion of an experimental product); or

21 “(2) for any other reason, but only to the ex-
22 tent that those changes involve market-dominant
23 products only.

24 “(b) FACTORS TO BE CONSIDERED.—The Commis-
25 sion shall make a recommended decision under this section



1 in accordance with the policies of this title and the fol-
2 lowing factors:

3 “(1) the establishment and maintenance of a
4 fair and equitable classification system;

5 “(2) the relative value to the people of the
6 kinds of mail matter entered into the postal system
7 and the desirability and justification for special clas-
8 sifications and services of mail;

9 “(3) the importance of providing classifications
10 with extremely high degrees of reliability and speed
11 of delivery;

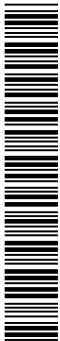
12 “(4) the importance of providing classifications
13 which do not require an extremely high degree of re-
14 liability and speed of delivery;

15 “(5) the desirability of special classifications
16 from the point of view of both the user and of the
17 Postal Service; and

18 “(6) such other factors as the Commission may
19 deem appropriate.

20 **“§ 3646. Recommended decisions of Commission**

21 “(a) IN GENERAL.—The Postal Regulatory Commis-
22 sion shall promptly consider a request made under section
23 3645, except that the Commission shall not recommend
24 a decision until the opportunity for a hearing on the record
25 under sections 556 and 557 of title 5 has been accorded



1 to the Postal Service, users of the mails, and an officer
2 of the Commission who shall be required to represent the
3 interests of the general public.

4 “(b) RULES OF PROCEDURE.—In order to conduct
5 its proceedings with utmost expedition consistent with pro-
6 cedural fairness to the parties, the Commission may (with-
7 out limitation) adopt rules which provide for—

8 “(1) the advance submission of written direct
9 testimony;

10 “(2) the conduct of prehearing conferences to
11 define issues, and for other purposes to insure or-
12 derly and expeditious proceedings;

13 “(3) discovery both from the Postal Service and
14 the parties to the proceedings;

15 “(4) limitation of testimony; and

16 “(5) the conduct of the entire proceedings off
17 the record with the consent of the parties.

18 “(c) DEADLINE FOR MAKING A RECOMMENDED DE-
19 CISION.—

20 “(1) IN GENERAL.—Except as provided by
21 paragraph (2), in any case in which the Postal Serv-
22 ice makes a request under section 3645 for a rec-
23 ommended decision by the Commission, the Commis-
24 sion shall transmit its recommended decision to the
25 Governors under subsection (d) no later than 10



1 months after receiving any such request from the
2 Postal Service.

3 “(2) SPECIAL RULE.—In any case in which the
4 Commission determines that the Postal Service has
5 unreasonably delayed consideration of a request
6 made by the Postal Service under section 3645 by
7 failing to respond within a reasonable time to any
8 lawful order of the Commission, the Commission
9 may extend the 10-month period described in para-
10 graph (1) of this subsection by 1 day for each day
11 of such delay.

12 “(d) TRANSMISSION OF RECOMMENDED DECISION.—
13 The Commission shall transmit its recommended decision
14 under this section to the Governors. The recommended de-
15 cision shall include a statement specifically responsive to
16 the criteria established under section 3645.

17 **“§ 3647. Action of the Governors**

18 “(a) IN GENERAL.—Upon receiving a recommended
19 decision from the Postal Regulatory Commission, the Gov-
20 ernors may approve, allow under protest, reject, or modify
21 that decision in accordance with the provisions of this sec-
22 tion.

23 “(b) APPROVE.—The Governors may approve the rec-
24 ommended decision and order the decision placed in effect.



1 “(c) ALLOW UNDER PROTEST.—The Governors may,
2 under protest, allow a recommended decision of the Com-
3 mission to take effect and (1) seek judicial review thereof
4 under section 3648(a), or (2) return the recommended de-
5 cision to the Commission for reconsideration and a further
6 recommended decision, which shall be acted upon under
7 this section and subject to review in accordance with sec-
8 tion 3648(a).

9 “(d) REJECT.—The Governors may reject the rec-
10 ommended decision of the Commission and the Postal
11 Service may resubmit its request to the Commission for
12 reconsideration. Upon resubmission, the request shall be
13 reconsidered, and a further recommended decision of the
14 Commission shall be acted upon under this section and
15 subject to review in accordance with section 3648(a).
16 However, with the unanimous written concurrence of all
17 of the Governors then holding office, the Governors may
18 modify any such further recommended decision of the
19 Commission under this subsection if the Governors ex-
20 pressly find that such modification is in accord with the
21 record and the policies of this chapter.

22 “(e) DECISION REQUIREMENTS.—The decision of the
23 Governors to approve, allow under protest, reject, or mod-
24 ify a recommended decision of the Commission shall be
25 in writing and shall include a statement of explanation and



1 justification. The decision, the record of the Commission's
2 hearings, and the Commission's recommended decision
3 shall be made generally available at the time the decision
4 is issued and shall be printed and made available for sale
5 by the Public Printer within 10 days following the day
6 the decision is issued.

7 “(f) EFFECTIVE DATE.—The Board shall determine
8 the date as of which the changes in the mail classification
9 schedule shall become effective.

10 **“§ 3648. Appellate review**

11 “(a) IN GENERAL.—A decision of the Governors to
12 approve, allow under protest, or modify the recommended
13 decision of the Postal Regulatory Commission on a request
14 made under section 3645 may be appealed to any court
15 of appeals of the United States, within 15 days after its
16 publication by the Public Printer, by an aggrieved party
17 who appeared in the proceedings under section 3646(a).
18 The court shall review the decision, in accordance with
19 section 706 of title 5, and chapter 158 and section 2112
20 of title 28, except as otherwise provided in this section,
21 on the basis of the record before the Commission and the
22 Governors. The court may affirm the decision or order
23 that the entire matter be returned for further consider-
24 ation, but the court may not modify the decision. The
25 court may not suspend the effectiveness of the changes,



1 or otherwise prevent them from taking effect until final
2 disposition of the suit by the court. No court shall have
3 jurisdiction to review a decision made by the Commission
4 or Governors under this chapter except as provided in this
5 section.

6 “(b) OTHER DECISIONS.—Any proceeding to enjoin,
7 set aside, annul, or suspend any order or decision of the
8 Postal Regulatory Commission, apart from any decision
9 appealable under subsection (a) (including by virtue of
10 section 3644(f)), shall be brought as provided by and in
11 the manner prescribed in chapter 158 of title 28.

12 “SUBCHAPTER VI—REPORTING
13 REQUIREMENTS AND RELATED PROVISIONS
14 “§ 3651. Annual reports by the Commission

15 “(a) IN GENERAL.—The Postal Regulatory Commis-
16 sion shall submit an annual report to the President and
17 the Congress concerning the operations of the Commission
18 under this title.

19 “(b) ADDITIONAL INFORMATION.—In addition to the
20 information required under subsection (a), each report
21 under this section shall also include, with respect to the
22 period covered by such report, an estimate of the costs
23 incurred by the Postal Service in providing—

24 “(1) postal services to areas of the Nation
25 where, in the judgment of the Postal Regulatory



1 Commission, the Postal Service either would not
2 provide services at all or would not provide such
3 services in accordance with the requirements of this
4 title if the Postal Service were not required to pro-
5 vide prompt, reliable, and efficient services to pa-
6 trons in all areas and all communities, including as
7 required under the first sentence of section 101(b);

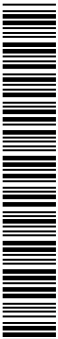
8 “(2) free or reduced rates for postal services as
9 required by this title; and

10 “(3) other public services or activities which, in
11 the judgment of the Postal Regulatory Commission,
12 would not otherwise have been provided by the Post-
13 al Service but for the requirements of law.

14 The Commission shall detail the bases for its estimates
15 and the statutory requirements giving rise to the costs
16 identified in each report under this section.

17 “(c) INFORMATION FROM POSTAL SERVICE.—The
18 Postal Service shall provide the Postal Regulatory Com-
19 mission with such information as may, in the judgment
20 of the Commission, be necessary in order for the Commis-
21 sion to prepare its reports under this section.

22 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
23 tion shall be considered to permit or require that the Post-
24 al Regulatory Commission reassess (or otherwise supplant
25 the judgment of the Postal Service as to) the level of serv-



1 ices the Postal Service is required to provide in order to
2 fulfill its obligations under this title (including sections
3 101 and 403) relating to providing universal postal serv-
4 ices.

5 “(e) REQUIRED COMPARISON.—The Postal Regu-
6 latory Commission shall include, in the first report which
7 it submits under this section at least 12 months after re-
8 ceiving the Postal Service’s recommendations under sec-
9 tion 2806, a comparison showing how the cost information
10 included in the Commission’s report pursuant to sub-
11 section (b) would differ depending on whether or not the
12 Postal Service’s recommendations under section 2806
13 were adopted.

14 **“§ 3652. Annual reports to the Commission**

15 “(a) COSTS, REVENUES, AND RATES.—Except as
16 provided in subsection (c), the Postal Service shall, no
17 later than 90 days after the end of each year, prepare and
18 submit to the Postal Regulatory Commission a report (to-
19 gether with such nonpublic annex thereto as the Commis-
20 sion may require under subsection (e))—

21 “(1) which shall analyze costs, revenues, and
22 rates in sufficient detail to demonstrate that the
23 rates in effect for all products during such year (in-
24 cluding, for purposes of section 3624, rates for all



1 competitive products collectively) complied with all
2 applicable requirements of this title; and

3 “(2) which shall, for each market-dominant
4 product provided in such year, provide—

5 “(A) market information, including mail
6 volumes; and

7 “(B) measures of the quality of service af-
8 forded by the Postal Service in connection with
9 such product, including—

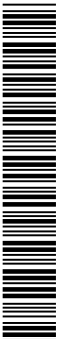
10 “(i) the service standard applicable to
11 such product;

12 “(ii) the level of service (described in
13 terms of speed of delivery and reliability)
14 provided; and

15 “(iii) the degree of customer satisfac-
16 tion with the service provided.

17 Before submitting a report under this subsection (includ-
18 ing any annex thereto and the information required under
19 subsection (b)), the Postal Service shall have the informa-
20 tion contained in such report (and annex) audited by the
21 Inspector General. The results of any such audit shall be
22 submitted along with the report to which it pertains.

23 “(b) INFORMATION RELATING TO WORKSHARE DIS-
24 COUNTS.—



1 “(1) IN GENERAL.—The Postal Service shall in-
2 clude, in each report under subsection (a), the fol-
3 lowing information with respect to each market-dom-
4 inant product for which a workshare discount was in
5 effect during the period covered by such report:

6 “(A) The per-item cost avoided by the
7 Postal Service by virtue of such discount.

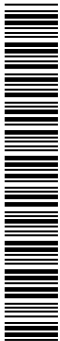
8 “(B) The percentage of such per-item cost
9 avoided that the per-item workshare discount
10 represents.

11 “(C) The per-item contribution made to in-
12 stitutional costs.

13 “(2) WORKSHARE DISCOUNT DEFINED.—For
14 purposes of this subsection, the term ‘workshare dis-
15 count’ refers to presorting, barcoding, dropshipping,
16 and other similar discounts, as further defined under
17 regulations which the Postal Regulatory Commission
18 shall prescribe.

19 “(c) MARKET TESTS.—In carrying out subsections
20 (a) and (b) with respect to experimental products offered
21 through market tests under subchapter IV in a year—

22 “(1) the Postal Service may, to the extent that
23 a test under section 3631 or 3632 is involved, report
24 summary data on the costs, revenues, and quality of
25 service by market test; and



1 “(2) the Postal Service shall, to the extent that
2 a test under section 3633 is involved, report such
3 data as the Postal Regulatory Commission requires.

4 “(d) SUPPORTING MATTER.—The Postal Regulatory
5 Commission shall have access, in accordance with such
6 regulations as the Commission shall prescribe, to the
7 working papers and any other supporting matter of the
8 Postal Service and the Inspector General in connection
9 with any information submitted under this section.

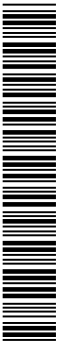
10 “(e) CONTENT AND FORM OF REPORTS.—

11 “(1) IN GENERAL.—The Postal Regulatory
12 Commission shall, by regulation, prescribe the con-
13 tent and form of the public reports (and any non-
14 public annex and supporting matter relating thereto)
15 to be provided by the Postal Service under this sec-
16 tion. In carrying out this subsection, the Commis-
17 sion shall give due consideration to—

18 “(A) providing the public with adequate in-
19 formation to assess the lawfulness of rates
20 charged;

21 “(B) avoiding unnecessary or unwarranted
22 administrative effort and expense on the part of
23 the Postal Service; and

24 “(C) protecting the confidentiality of com-
25 mercially sensitive information.



1 “(2) REVISED REQUIREMENTS.—The Commis-
2 sion may, on its own motion or on request of an in-
3 terested party, initiate proceedings (to be conducted
4 in accordance with regulations that the Commission
5 shall prescribe) to improve the quality, accuracy, or
6 completeness of postal service data required by the
7 Commission under this subsection whenever it shall
8 appear that—

9 “(A) the attribution of costs or revenues to
10 products has become significantly inaccurate or
11 can be significantly improved;

12 “(B) the quality of service data has be-
13 come significantly inaccurate or can be signifi-
14 cantly improved; or

15 “(C) such revisions are, in the judgment of
16 the Commission, otherwise necessitated by the
17 public interest.

18 “(f) CONFIDENTIAL INFORMATION.—

19 “(1) IN GENERAL.—If the Postal Service deter-
20 mines that any document or portion of a document,
21 or other matter, which it provides to the Postal Reg-
22 ulatory Commission in a nonpublic annex under this
23 section or pursuant to subsection (d) contains infor-
24 mation which is described in section 410(c) of this
25 title, or exempt from public disclosure under section



1 552(b) of title 5, the Postal Service shall, at the
2 time of providing such matter to the Commission,
3 notify the Commission of its determination, in writ-
4 ing, and describe with particularity the documents
5 (or portions of documents) or other matter for which
6 confidentiality is sought and the reasons therefor.

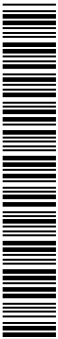
7 “(2) TREATMENT.—Any information or other
8 matter described in paragraph (1) to which the
9 Commission gains access under this section shall be
10 subject to paragraphs (2) and (3) of section 3604(g)
11 in the same way as if the Commission had received
12 notification with respect to such matter under sec-
13 tion 3604(g)(1).

14 “(g) OTHER REPORTS.—The Postal Service shall
15 submit to the Postal Regulatory Commission, together
16 with any other submission that it is required to make
17 under this section in a year, copies of its then most
18 recent—

19 “(1) comprehensive statement under section
20 2401(e);

21 “(2) performance plan under section 2803; and

22 “(3) program performance reports under sec-
23 tion 2804.



1 **“§ 3653. Annual determination of compliance**

2 “(a) PROFITS DEFINED.—For purposes of this sec-
3 tion, the term ‘profits’, with respect to a year, means the
4 amount by which—

5 “(1) total revenues of the Postal Service attrib-
6 utable to such year, exceeds

7 “(2) total costs of the Postal Service (including
8 institutional costs) attributable to such year,
9 as determined based on the report under section 3652(a)
10 for such year.

11 “(b) OPPORTUNITY FOR PUBLIC COMMENT.—After
12 receiving the reports required under section 3652 for any
13 year, the Postal Regulatory Commission shall promptly
14 provide an opportunity for comment on such reports by
15 users of the mails, affected parties, and an officer of the
16 Commission who shall be required to represent the inter-
17 ests of the general public.

18 “(c) DETERMINATION OF COMPLIANCE OR NON-
19 COMPLIANCE.—Not later than 90 days after receiving the
20 submissions required under section 3652 with respect to
21 a year, the Postal Regulatory Commission shall make a
22 written determination as to—

23 “(1) whether any rates or fees in effect during
24 such year (for products individually or collectively)
25 were not in compliance with applicable provisions of
26 this title;



1 “(2) whether any performance goals established
2 under section 2803 or 2804 for such year were not
3 met; and

4 “(3) whether any market-dominant product
5 failed to meet any service standard during such
6 year.

7 If, with respect to a year, no instance of noncompliance
8 is found under this subsection to have occurred in such
9 year, the written determination shall be to that effect.

10 “(d) IF NO INSTANCE OF NONCOMPLIANCE IS
11 FOUND.—

12 “(1) USE OF PROFITS.—If, with respect to a
13 year, a timely written determination under sub-
14 section (c) is made to the effect that no instance of
15 noncompliance is found to have occurred in such
16 year (or if no written determination under sub-
17 section (c) is timely made with respect to the year),
18 then, up to 100 percent of the profits attributable to
19 that year (if any) may be used by the Postal Service
20 for the purposes described in subsection (f).

21 “(2) REBUTTABLE PRESUMPTION.—A timely
22 written determination described in the last sentence
23 of subsection (c) shall, for purposes of any pro-
24 ceeding under section 3662, create a rebuttable pre-
25 sumption of compliance by the Postal Service (with



1 regard to the matters described in paragraphs (1)
2 through (3) of subsection (c)) during the year to
3 which such determination relates.

4 “(e) IF ANY NONCOMPLIANCE IS FOUND.—If, for a
5 year, a timely written determination of noncompliance is
6 made under subsection (c)—

7 “(1)(A) the Postal Regulatory Commission may
8 order, commensurate with the nature, circumstances,
9 extent, and seriousness of the noncompliance, that a
10 specific percentage (not to exceed 50 percent) of the
11 profits attributable to such year (if any) be set aside
12 for the purposes described in subsection (g); and

13 “(B) the remainder of those profits (or any por-
14 tion of the remainder) may be used by the Postal
15 Service for the purposes described in subsection (f);
16 and

17 “(2) the Commission may, in the case of any
18 violation as to which a remedy could be ordered by
19 the Commission under section 3662(c), order any
20 such remedy under this section.

21 “(f) BONUSES.—

22 “(1) IN GENERAL.—The Postal Service shall es-
23 tablish a program under which cash bonuses may be
24 paid to officers and employees of the Postal Service



1 out of any profits which are available for that pur-
2 pose.

3 “(2) REQUIREMENTS.—Under the program—

4 “(A) bonuses may be paid to officers and
5 employees of the Postal Service under criteria
6 which shall be fair and equitable;

7 “(B) the sole source of funding shall be
8 any profits from any year, subject to the appli-
9 cation of subsection (e)(1) with respect to such
10 year; and

11 “(C) bonuses shall not be precluded (in
12 whole or in part) by the limitation on com-
13 pensation under the last sentence of section
14 1003(a) in a year.

15 “(3) DISCRETIONARY NATURE OF PROGRAM.—

16 Nothing in this section shall be considered to create
17 any entitlement to receive bonuses or to require that
18 any portion of the profits from any year be used for
19 bonuses in excess of whatever amount the Postal
20 Service, in its sole discretion, considers appropriate.

21 “(4) CONSIDERATIONS RELATING TO THE POR-
22 TION OF PROFITS TO BE AVAILABLE FOR BO-
23 NUSES.—In any decision relating to what portion of
24 the available profits from any year shall be made



1 available or used for bonuses under this subsection,
2 there shall be taken into consideration—

3 “(A) the obligation on the part of the
4 Postal Service to provide efficient and economi-
5 cal postal services in accordance with this title;
6 and

7 “(B) the question of what portion of those
8 profits (if any) should be used—

9 “(i) to retire debts or other obliga-
10 tions of the Postal Service;

11 “(ii) to limit future increases in postal
12 rates or fees for products in the market-
13 dominant category of mail; or

14 “(iii) to carry out any other purpose.

15 “(g) DEDICATION OF FUNDS TOWARD REDUCING
16 RATES AND FEES.—

17 “(1) IN GENERAL.—Any amounts ordered to be
18 set aside under subsection (e)(1)(A) may not be
19 used for any purpose other than to defray increases
20 in future rates and fees for products in the market-
21 dominant category of mail or to reduce the rates and
22 fees already in effect for such products.

23 “(2) COMPLIANCE.—Whenever an order under
24 paragraph (1)(A) or (2) of subsection (e) is issued,
25 the Postal Service shall include in its next com-



1 prehensive statement under section 2401(e) (and
2 each subsequent statement thereunder until such
3 order has been fully complied with) a statement as
4 to—

5 “(A) what measures have been or will be
6 implemented in order to comply with the order,
7 including the schedule in accordance with which
8 any amounts set aside pursuant to an order
9 issued under subsection (e)(1)(A) shall be used
10 or made available for the purposes described in
11 paragraph (1); and

12 “(B) if (or to the extent that) an order
13 under subsection (e)(1)(A) is involved—

14 “(i) the amount of savings actually
15 passed on to mailers during the reporting
16 period (whether through reduced rates and
17 fees or otherwise), as compared to the
18 amount of savings scheduled to have been
19 passed on to mailers during such period;
20 and

21 “(ii) to the extent that the amount of
22 savings actually passed on to mailers is
23 less than the amount scheduled to have
24 been passed on to mailers during a report-
25 ing period, what measures (if any) have



1 been or will be implemented to reconcile
2 the difference.

“(3) NONREDUNDANT INFORMATION.—Nothing in paragraph (2) shall be considered to require that the same information be reported if included in a previous report under this subsection.

7 “(h) REPORTING REQUIREMENT RELATING TO BO-
8 NUSES.—Included in its comprehensive statement under
9 section 2401(e) for any period shall be—

10 “(1) the name of each person receiving a bonus
11 during such period which would not have been allow-
12 able but for the provisions of subsection (f)(2)(C);

13 “(2) the amount of the bonus; and

14 “(3) the amount by which the limitation re-
15 ferred to in subsection (f)(2)(C) was exceeded as a
16 result of such bonus.

17 “SUBCHAPTER VII—POSTAL SERVICES AND
18 COMPLAINTS

19 “§ 3661. Postal services

20 “(a) IN GENERAL.—The Postal Service shall develop
21 and promote adequate and efficient postal services.

22 “(b) NATIONWIDE CHANGES IN POSTAL SERVICES.—
23 When the Postal Service determines that there should be
24 a change in the nature of postal services which will gen-
25 erally affect service on a nationwide or substantially na-

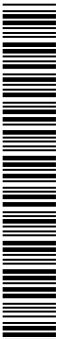


1 tionwide basis, it shall submit a proposal, within a reason-
2 able time prior to the effective date of such proposal, to
3 the Postal Regulatory Commission requesting an advisory
4 opinion on the change.

5 “(c) PROCEDURAL REQUIREMENTS.—The Commis-
6 sion shall not issue its opinion on any proposal until an
7 opportunity for hearing on the record under sections 556
8 and 557 of title 5 has been accorded to the Postal Service,
9 users of the mail, and an officer of the Commission who
10 shall be required to represent the interests of the general
11 public. The opinion shall be in writing and shall include
12 a certification by each Commissioner agreeing with the
13 opinion that in his judgment the opinion conforms to the
14 policies established under this title.

15 **“§ 3662. Rate and service complaints**

16 “(a) IN GENERAL.—Interested parties (including an
17 officer of the Postal Regulatory Commission representing
18 the interests of the general public) who believe the Postal
19 Service is charging rates which do not conform to the poli-
20 cies set out in this title, who believe that the Postal Service
21 is not providing postal service in accordance with the poli-
22 cies of this title, or who believe that the Postal Service
23 is otherwise not acting in conformance with the policies
24 of this title, may lodge a complaint with the Postal Regu-



1 latory Commission in such form and manner as it may
2 prescribe.

3 “(b) PROMPT RESPONSE REQUIRED.—

4 “(1) IN GENERAL.—The Postal Regulatory
5 Commission shall, within 90 days after receiving a
6 complaint under subsection (a), either—

7 “(A) begin proceedings on such complaint
8 in conformity with section 3644(d)(1); or

9 “(B) issue an order dismissing the com-
10 plaint (together with a statement of the reasons
11 therefor).

12 “(2) TREATMENT OF COMPLAINTS NOT TIMELY
13 ACTED ON.—For purposes of section 3648(b), any
14 complaint under subsection (a) on which the Com-
15 mission fails to act in the time and manner required
16 by paragraph (1) shall be treated in the same way
17 as if it had been dismissed pursuant to an order
18 issued by the Commission on the last day allowable
19 for the issuance of such order under paragraph (1).

20 “(c) ACTIONS REQUIRED IF COMPLAINT FOUND TO
21 BE JUSTIFIED.—If the Postal Regulatory Commission
22 finds the complaint to be justified, it shall—

23 “(1) in a classification matter covered by sec-
24 tion 3645, after proceedings in conformity with sec-
25 tion 3646, issue a recommended decision which shall



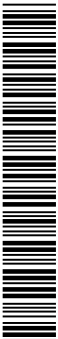
1 be acted upon in accordance with the provisions of
2 section 3647;

3 “(2) in a matter involving a violation of section
4 3613 (relating to revenue requirements for market-
5 dominant products), order the taking of such action
6 as it considers appropriate;

7 “(3) in a matter involving a violation of section
8 3623(a) (relating to costs-attributable requirement
9 for competitive products) or section 3643(b) (relat-
10 ing to conditions to be met by new competitive prod-
11 ucts), order the unlawful rates to be adjusted to law-
12 ful levels and the taking of such other action as it
13 considers appropriate (including, in the case of a
14 violation of section 3643(b)(1), withdrawal of the
15 product involved, except that no such withdrawal
16 may be ordered later than 90 days after the date on
17 which the product involved is first offered);

18 “(4) in a matter involving a violation of section
19 3671 (relating to service agreements for market-
20 dominant products), order—

21 “(A) the adjustment of any unlawful rates
22 to lawful levels (including the payment of any
23 liquidated damages which may be required
24 under the terms of the agreement involved);



1 “(B) in the case of a proposed service
2 agreement meeting the requirements of section
3 3671(e), that such agreement be entered into;
4 and

5 “(C) the taking of such other action as it
6 considers appropriate (including, if appropriate,
7 the cancellation of such agreement);

8 “(5) in a matter involving a violation of section
9 403(c) (prohibiting undue or unreasonable discrimi-
10 nation or preferences among or to users of the
11 mails), order the taking of such action as it con-
12 siders appropriate;

13 “(6) in a matter involving a violation of any
14 provision of subchapter IV (relating to market tests
15 of experimental products), order the cancellation of
16 the testing involved or the taking of such other ac-
17 tion as it considers appropriate;

18 “(7) in a matter involving a violation of section
19 404a (relating to specific limitations), order the re-
20 scission of any regulation involved or the taking of
21 such action as it considers appropriate;

22 “(8) in a matter involving the Postal Service’s
23 providing a special nonpostal or similar service that
24 is not permitted under section 404(c), order that the
25 Postal Service cease providing such product; and



1 “(9) in a matter not otherwise covered by any
2 of the preceding provisions of this subsection, render
3 a public report thereon.

4 “(d) ADDITIONAL AUTHORITIES AVAILABLE IN
5 CASES OF DELIBERATE NONCOMPLIANCE.—In addition,
6 in cases of deliberate noncompliance by the Postal Service
7 with the requirements of this title, the Postal Regulatory
8 Commission may order, based on the nature, cir-
9 cumstances, extent, and seriousness of the noncompliance,
10 a fine (in the amount specified by the Commission in its
11 order) for each incidence of noncompliance. Fines result-
12 ing from the provision of competitive products shall be
13 paid out of the Competitive Products Fund established in
14 section 2011. All receipts from fines imposed under this
15 subsection shall be deposited in the general fund of the
16 Treasury of the United States.

17 “SUBCHAPTER VIII—GENERAL
18 **“§ 3671. Service agreements for market-dominant**
19 **products**

20 “(a) IN GENERAL.—The Postal Service may enter
21 into service agreements with users of postal services in ac-
22 cordance with this section. A service agreement under this
23 section shall—

24 “(1) pertain exclusively to products in the mar-
25 ket-dominant category of mail;



1 “(2) require that the contracting mail user per-
2 form mail preparation, processing, transportation,
3 administration, or other functions (other than satis-
4 faction of minimum quantity requirements standing
5 alone) that are in addition to or greater than those
6 required of mailers under provisions of the mail clas-
7 sification schedule established under this title;

8 “(3) provide for the payment by the contracting
9 mail user of liquidated damages to the Postal Serv-
10 ice for nonperformance or breach of any of the ma-
11 terial terms of the agreement, including any min-
12 imum volume commitments; the amount of such liq-
13 uidated damages shall not be less than the difference
14 between postage and fees paid by such mail user
15 pursuant to the agreement and the amounts such
16 user would have paid under the otherwise applicable
17 schedule of rates and fees;

18 “(4) be for a term of not to exceed 3 years;

19 “(5) include appropriate provisions under which
20 the contracting mail user shall be allowed to resell
21 or otherwise make available the benefits under such
22 agreement to other mail users; and

23 “(6) provide that such agreement shall be sub-
24 ject to the cancellation authority of the Commission
25 under section 3662(c).



1 “(b) CONDITIONS.—A service agreement under this
2 section may not be entered into (or amended) unless each
3 of the following conditions is met:

4 “(1) The agreement (as proposed or as pro-
5 posed to be amended, as applicable)—

6 “(A) meets the conditions and require-
7 ments of subsection (a);

8 “(B) does not preclude or materially
9 hinder similarly situated mail users from enter-
10 ing into agreements with the Postal Service on
11 the same, or substantially the same, terms and
12 conditions; and

13 “(C) can reasonably be expected to result
14 in net benefits to the operation of a nationwide
15 postal system.

16 “(2) The Postal Service remains willing and
17 able to enter into such service agreements with other
18 similarly situated mail users.

19 “(3) Rates and fees payable during the term of
20 the service agreement (as proposed or as proposed to
21 be amended, as applicable) are reasonably calculated
22 to yield to the Postal Service total revenues that
23 equal or exceed the sum of—



1 “(A) the direct and indirect postal costs
2 attributable to services performed by the Postal
3 Service under the agreement; and

4 “(B) a portion of all other costs of the
5 Postal Service that are equal, on an average
6 unit basis, to the portion of such costs reason-
7 ably assignable to the classification or classi-
8 fications of mail service most similar to the
9 services performed under the agreement.

10 “(c) NOTICE REQUIREMENTS.—

11 “(1) IN GENERAL.—At least 20 days before a
12 service agreement under this section (or an amend-
13 ment to such an agreement) is to take effect, the
14 Postal Service shall file with the Postal Regulatory
15 Commission and publish in the Federal Register the
16 following information with respect to such agreement
17 (as proposed or as proposed to be amended, as appli-
18 cable):

19 “(A) With respect to each condition under
20 subsection (b), information in sufficient detail
21 to demonstrate the bases for the Postal Serv-
22 ice’s view that such condition would be met.

23 “(B) A description of the type of mail the
24 agreement involves.



1 “(C) The mail preparation, processing,
2 transportation, administration, or other addi-
3 tional functions the mail user is to perform
4 under the agreement.

5 “(D) The services or other benefits the
6 Postal Service is to provide under the agree-
7 ment.

8 “(E) The rates and fees payable by the
9 mail user during the term of the agreement.

10 “(2) AGREEMENTS LESS THAN NATIONAL IN
11 SCOPE.—In the case of a service agreement under
12 this section that is less than national in scope, the
13 information described in the preceding sentence shall
14 also be published by the Postal Service in a manner
15 designed to afford reasonable notice to persons with-
16 in the geographic area or areas to which such agree-
17 ment (or any amendment thereto) pertains.

18 “(d) COMPLAINTS.—If the Postal Regulatory Com-
19 mission receives a complaint from an interested party (in-
20 cluding an officer of the Commission representing the in-
21 terests of the general public) alleging that a service agree-
22 ment under this section is not (or, in the case of a pro-
23 posed agreement or a proposed amendment to a service
24 agreement under this section, would not be) in conform-
25 ance with the requirements of this section, the Commis-



1 sion shall act on such complaint in accordance with section
2 3662.

3 “(e) SPECIAL RULE.—

4 “(1) APPLICABILITY.—This subsection applies
5 in the case of any service agreement that—

6 “(A) satisfies all applicable requirements
7 of this title (disregarding this subsection) relat-
8 ing to service agreements, and regulations rel-
9 evant thereto; and

10 “(B) satisfies subsection (a)(2) on the
11 basis of 1 or more of the same functions as pre-
12 viously identified by the Postal Service (in ac-
13 cordance with subsection (c)) in connection with
14 any other agreement under this section.

15 “(2) STATEMENT OF THE RULE.—Whenever it
16 receives from a mail user a proposal for a service
17 agreement described in paragraph (1), the Postal
18 Service shall enter into such agreement with such
19 mail user in a timely manner, unless the proposed
20 agreement would result in—

21 “(A) undue or unreasonable administrative
22 expense to the Postal Service; or

23 “(B) measurable degradation in the quality
24 or extent of universal postal services required



1 under this title (including sections 101 and
2 403).

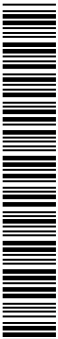
3 “(3) GRIEVANCE PROCEDURES.—Any person
4 aggrieved by a decision of the Postal Service not to
5 enter into a proposed service agreement under this
6 subsection, or by a failure of the Postal Service to
7 act on a proposed agreement in a timely manner,
8 may bring a complaint in accordance with section
9 3662.

10 “(4) FUNCTION DEFINED.—As used in para-
11 graph (1), the term ‘function’ means each of the fol-
12 lowing: mail preparation, processing, transportation,
13 administration, and any other general category of
14 function recognized by the Postal Service for pur-
15 poses of subsection (a)(2).

16 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
17 tion shall be considered to limit or otherwise affect any
18 authority available to the Postal Service under section
19 3643 or 3645.

20 **“§ 3672. Reimbursement**

21 “No mailer may be reimbursed for any amount paid
22 under any rate or fee which, after such payment, is super-
23 seded by a lower rate or fee established under this chapter.



1 **“§ 3673. Size and weight limits**

2 “The Postal Service may establish size and weight
3 limitations for mail matter in the same manner as pre-
4 scribed for changes in the mail classification under sec-
5 tions 3645–3648(a).

6 **“§ 3674. Uniform rates for books; films; other mate-**
7 **rials**

8 “(a) IN GENERAL.—Notwithstanding any other pro-
9 vision of this title, the rates of postage established for mail
10 matter enumerated in former section 4554 of this title
11 shall be uniform for such mail of the same weight, and
12 shall not vary with the distance transported.

13 “(b) APPLICABILITY.—The rates of postage under
14 former section 4554(b)(1) of this title shall not be effective
15 except with respect to mailings which—

16 “(1) constitute materials specified in former
17 section 4554(b)(2) of this title; and

18 “(2) are sent between—

19 “(A) an institution, organization, or asso-
20 ciation listed in subparagraph (A) or (B) of
21 such former section 4554(b)(1) and any other
22 such institution, organization, or association;

23 “(B) an institution, organization, or asso-
24 ciation referred to in subparagraph (A) and any
25 individual (other than an individual having a fi-



1 nancial interest in the sale, promotion, or dis-
2 tribution of the materials involved);

3 “(C) an institution, organization, or asso-
4 ciation referred to in subparagraph (A) and a
5 qualified nonprofit organization (as defined in
6 former section 4452(d) of this title) that is not
7 such an institution, organization, or association;
8 or

9 “(D) an institution, organization, or asso-
10 ciation referred to in subparagraph (A) and a
11 publisher, if such institution, organization, or
12 association has placed an order to purchase
13 such materials for delivery to such institution,
14 organization, or association.

15 **“§ 3675. Limitations**

16 “Except as provided in section 3615, no provision of
17 this chapter shall be construed to give authority to the
18 Governors to make any change in any provision of this
19 title.

20 **“§ 3676. Filing of information relating to periodical**
21 **publications**

22 “(a) IN GENERAL.—Each owner of a publication hav-
23 ing periodical publication mail privileges shall furnish to
24 the Postal Service at least once a year, and shall publish
25 in such publication once a year, information in such form



1 and detail and at such time as the Postal Service may
2 require with respect to—

3 “(1) the identity of the editor, managing editor,
4 publishers, and owners;

5 “(2) the identity of the corporation and stock-
6 holders thereof, if the publication is owned by a cor-
7 poration;

8 “(3) the identity of known bondholders, mortga-
9 gees, and other security holders;

10 “(4) the extent and nature of the circulation of
11 the publication, including, but not limited to, the
12 number of copies distributed, the methods of dis-
13 tribution, and the extent to which such circulation is
14 paid in whole or in part; and

15 “(5) such other information as the Postal Serv-
16 ice may deem necessary to determine whether the
17 publication meets the standards for periodical publi-
18 cation mail privileges.

19 The Postal Service shall not require the names of persons
20 owning less than 1 percent of the total amount of stocks,
21 bonds, mortgages, or other securities.

22 “(b) CONTINUING ELIGIBILITY.—Each publication
23 having such mail privileges shall furnish to the Postal
24 Service information in such form and detail, and at such



1 times, as the Postal Service requires to determine whether
2 the publication continues to qualify for such privileges.

3 “(c) REGULATIONS.—The Postal Service shall make
4 appropriate rules and regulations to carry out the pur-
5 poses of this section, including provision for suspension
6 or revocation of periodical publication mail privileges for
7 failure to furnish the required information.

8 **“§ 3677. Change-of-address order involving a commer-**
9 **cial mail receiving agency**

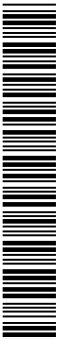
10 “(a) For the purpose of this section, the term ‘com-
11 mercial mail receiving agency’ or ‘CMRA’ means a private
12 business that acts as the mail receiving agent for specific
13 clients.

14 “(b) Upon termination of an agency relationship be-
15 tween an addressee and a commercial mail receiving
16 agency—

17 “(1) the addressee or, if authorized to do so,
18 the CMRA may file a change-of-address order with
19 the Postal Service with respect to such addressee;

20 “(2) a change-of-address order so filed shall, to
21 the extent practicable, be given full force and effect;
22 and

23 “(3) any mail for the addressee that is delivered
24 to the CMRA after the filing of an appropriate order



1 under this subsection shall be subject to subsection
2 (c).

3 “(c) Mail described in subsection (b)(3) shall, if
4 marked for forwarding and remailed by the CMRA, be for-
5 warded by the Postal Service in the same manner as, and
6 subject to the same terms and conditions (including limita-
7 tions on the period of time for which a change-of-address
8 order shall be given effect) as apply to, mail forwarded
9 directly by the Postal Service to the addressee.”.

10 (2) CHAPTER ANALYSIS.—The analysis for
11 chapter 36 of title 39, United States Code, is
12 amended by striking all after the item relating to
13 section 3604 and inserting the following:

“SUBCHAPTER II—RATES FOR PRODUCTS IN THE MARKET-
DOMINANT CATEGORY OF MAIL

- “3611. Applicability; definitions and updates.
- “3612. Authority to establish rates.
- “3613. Revenue requirements for market-dominant products.
- “3614. Reduced rates.
- “3615. Adjusting free rates.
- “3616. Reduced rates for voter registration purposes.

“SUBCHAPTER III—RATES FOR PRODUCTS IN THE COMPETITIVE
CATEGORY OF MAIL

- “3621. Applicability; definitions and updates.
- “3622. Action of the Governors.
- “3623. Provisions applicable to competitive products individually.
- “3624. Provisions applicable to competitive products collectively.
- “3625. Assumed Federal income tax on competitive products income.

“SUBCHAPTER IV—MARKET TESTS OF EXPERIMENTAL
PRODUCTS

- “3631. Market tests of experimental market-dominant products.
- “3632. Market tests of experimental competitive products.
- “3633. Large-scale market tests.
- “3634. Adjustment for inflation.
- “3635. Conversion to permanence.



“3636. Definition of a small business concern.

“3637. Effective date.

“SUBCHAPTER V—PROVISIONS RELATING TO THE
CLASSIFICATION OF PRODUCTS

“3641. Criteria for the identification of market-dominant and competitive products.

“3642. New market-dominant products.

“3643. New competitive products.

“3644. Transfers of products from the market-dominant category of mail.

“3645. Changes in the classification of market-dominant products.

“3646. Recommended decisions of Commission.

“3647. Action of the Governors.

“3648. Appellate review.

“SUBCHAPTER VI—REPORTING REQUIREMENTS AND RELATED
PROVISIONS

“3651. Annual reports by the Commission.

“3652. Annual reports to the Commission.

“3653. Annual determination of compliance.

“SUBCHAPTER VII—POSTAL SERVICES AND COMPLAINTS

“3661. Postal services.

“3662. Rate and service complaints.

“SUBCHAPTER VIII—GENERAL

“3671. Service agreements for market-dominant products.

“3672. Reimbursement.

“3673. Size and weight limits.

“3674. Uniform rates for books; films; other materials.

“3675. Limitations.

“3676. Filing of information relating to periodical publications.

“3677. Change-of-address order involving a commercial mail receiving agency.”.

1 (b) AMENDMENTS TO TITLE 28, UNITED STATES

2 CODE.—

3 (1) DEFINITION.—Subparagraph (A) of section

4 2341(3) of title 28, United States Code, is amended

5 by inserting “the Postal Regulatory Commission,”

6 after “the Federal Maritime Commission,”.

7 (2) ORDERS APPEALABLE.—Section 2342 of

8 title 28, United States Code, is amended by striking

9 “and” at the end of paragraph (6), by striking the



1 period at the end of paragraph (7) and inserting “;
2 and”, and by adding after paragraph (7) the fol-
3 lowing:

4 “(8) all final orders of the Postal Regulatory
5 Commission made reviewable by section 3648(b) of
6 title 39.”.

7 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

8 (1) Title 39, United States Code, is amended—

9 (A) in section 3603 by striking “this chapter.”
10 and inserting “this title.”; and

11 (B) in section 2401(d) by inserting “(as so des-
12 ignated during such period)” after “3626(a)” and
13 after “3626(a)(3)(B)(ii)”.

14 (2) Section 527 of Public Law 104–52 (39 U.S.C.
15 3626 note) is amended—

16 (A) by striking “3626” and inserting “3614”;
17 and

18 (B) by striking “subsection 3626(g)” in clause
19 (ii) and inserting “section 3614(g)”.

20 **SEC. 203. POSTAL SERVICE COMPETITIVE PRODUCTS**
21 **FUND.**

22 (a) PROVISIONS RELATING TO POSTAL SERVICE
23 COMPETITIVE PRODUCTS FUND AND RELATED MAT-
24 TERS.—



1 (1) IN GENERAL.—Chapter 20 of title 39,
2 United States Code, is amended by adding at the
3 end the following:

4 **“§ 2011. Provisions relating to competitive products**

5 “(a) There is established in the Treasury of the
6 United States a revolving fund, to be called the Postal
7 Service Competitive Products Fund, which shall be avail-
8 able to the Postal Service without fiscal-year limitation for
9 the payment of—

10 “(1) costs attributable to competitive products;
11 and

12 “(2) all other costs incurred by the Postal Serv-
13 ice, to the extent allocable to competitive products.
14 For purposes of this subsection, the term ‘costs attrib-
15 utable’ has the meaning given such term by section 3621.

16 “(b) There shall be deposited in the Competitive
17 Products Fund, subject to withdrawal by the Postal
18 Service—

19 “(1) revenues from competitive products;

20 “(2) amounts received from obligations issued
21 by the Postal Service under subsection (g);

22 “(3) interest and dividends earned on invest-
23 ments of the Competitive Products Fund; and



1 “(4) any other receipts of the Postal Service
2 (including from the sale of assets), to the extent al-
3 locable to competitive products.

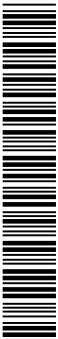
4 “(c)(1) If the Postal Service determines that the
5 moneys of the Competitive Products Fund are in excess
6 of current needs, it may invest such amounts as it con-
7 siders appropriate in—

8 “(A) obligations of, or obligations guaranteed
9 by, the Government of the United States; and

10 “(B) in accordance with regulations which the
11 Secretary of the Treasury shall prescribe (by not
12 later than 18 months after the date of enactment of
13 the Postal Accountability and Enhancement Act),
14 such other obligations or securities as it deems ap-
15 propriate.

16 “(2) Before any regulation is issued under this sub-
17 section, a copy of the proposed regulation shall be pub-
18 lished in the Federal Register, and an opportunity shall
19 be provided for interested parties to present written and,
20 where practicable, oral comment.

21 “(d) The Postal Service may, in its sole discretion,
22 provide that moneys of the Competitive Products Fund be
23 deposited in a Federal Reserve bank or a depository for
24 public funds.



1 “(e) A judgment against the Postal Service or the
2 Government of the United States (or settlement of a
3 claim) shall, to the extent that it arises out of activities
4 of the Postal Service in the provision of competitive prod-
5 ucts, be paid out of the Competitive Products Fund.

6 “(f) The receipts and disbursements of the Competi-
7 tive Products Fund shall be accorded the same budgetary
8 treatment as is accorded to receipts and disbursements of
9 the Postal Service Fund under section 2009a.

10 “(g)(1) Subject to the limitations specified in section
11 2005(a), the Postal Service is authorized to borrow money
12 and to issue and sell such obligations as it determines nec-
13 essary to provide for competitive products and deposit
14 such amounts in the Competitive Products Fund, except
15 that the Postal Service may pledge only assets related to
16 the provision of competitive products (as determined
17 under subsection (h) or, for purposes of any period before
18 accounting practices and principles under subsection (h)
19 have been established and applied, the best information
20 available from the Postal Service, including the audited
21 statements required by section 2008(e)), and the revenues
22 and receipts from such products, for the payment of the
23 principal of or interest on such obligations, for the pur-
24 chase or redemption thereof, and for other purposes inci-
25 dental thereto, including creation of reserve, sinking, and



1 other funds which may be similarly pledged and used, to
2 such extent and in such manner as it deems necessary or
3 desirable.

4 “(2) The Postal Service may enter into binding cov-
5 enants with the holders of such obligations, and with the
6 trustee, if any, under any agreement entered into in con-
7 nection with the issuance thereof with respect to—

8 “(A) the establishment of reserve, sinking, and
9 other funds;

10 “(B) application and use of revenues and re-
11 ceipts of the Competitive Products Fund;

12 “(C) stipulations concerning the subsequent
13 issuance of obligations or the execution of leases or
14 lease purchases relating to properties of the Postal
15 Service; and

16 “(D) such other matters as the Postal Service
17 considers necessary or desirable to enhance the mar-
18 ketability of such obligations.

19 “(3) Obligations issued by the Postal Service under
20 this subsection—

21 “(A) may not be purchased by the Secretary of
22 the Treasury;

23 “(B) shall not be exempt either as to principal
24 or interest from any taxation now or hereafter im-
25 posed by any State or local taxing authority;



1 “(C) shall not be obligations of, nor shall pay-
2 ment of the principal thereof or interest thereon be
3 guaranteed by, the Government of the United
4 States, and the obligations shall so plainly state; and

5 “(D) notwithstanding the provisions of the Fed-
6 eral Financing Bank Act of 1973 or any other provi-
7 sion of law (except as specifically provided by ref-
8 erence to this subparagraph in a law enacted after
9 this subparagraph takes effect), shall not be eligible
10 for purchase by, commitment to purchase by, or sale
11 or issuance to, the Federal Financing Bank.

12 “(4)(A) This paragraph applies with respect to the
13 period beginning on the date of enactment of this para-
14 graph and ending at the close of the 5-year period which
15 begins on the date on which the Postal Service makes its
16 submission under subsection (h)(1)(B)(iii).

17 “(B) During the period described in subparagraph
18 (A), nothing in subparagraph (A) or (D) of paragraph (3)
19 shall, with respect to any obligations sought to be issued
20 by the Postal Service under this subsection, be considered
21 to affect such obligations’ eligibility for purchase by, com-
22 mitment to purchase by, or sale or issuance to, the Federal
23 Financing Bank.

24 “(C) The Federal Financing Bank may elect to pur-
25 chase such obligations under such terms, including rates



1 of interest, as the Bank and the Postal Service may agree,
2 but at a rate of yield no less than the prevailing yield on
3 outstanding marketable securities of comparable maturity
4 issued by entities with the same credit rating as the rating
5 then most recently obtained by the Postal Service under
6 subparagraph (D), as determined by the Bank.

7 “(D) In order to be eligible to borrow under this
8 paragraph, the Postal Service shall first obtain a credit
9 rating from a nationally recognized credit rating organiza-
10 tion. Such rating—

11 “(i) shall be determined taking into account
12 only those assets and activities of the Postal Service
13 which are described in section 3625(a)(2) (relating
14 to the Postal Service’s assumed taxable income from
15 competitive products); and

16 “(ii) may, before final rules of the Postal Regu-
17 latory Commission under subsection (h) are issued
18 (or deemed to have been issued), be based on the
19 best information available from the Postal Service,
20 including the audited statements required by section
21 2008(e).

22 “(h)(1)(A) The Postal Service, in consultation with
23 an independent, certified public accounting firm and such
24 other advisors as it considers appropriate, shall develop
25 recommendations regarding—



1 “(i) the accounting practices and principles that
2 should be followed in the identification and valuation
3 of—

4 “(I) the assets of the Postal Service associ-
5 ated with providing competitive products; and

6 “(II) the liabilities of the Postal Service
7 associated with providing competitive products;
8 and

9 “(ii) the substantive and procedural rules that
10 should be followed in determining the Postal Serv-
11 ice’s assumed Federal income tax on competitive
12 products income for any year (within the meaning of
13 section 3625).

14 “(B) Such recommendations—

15 “(i) to the extent that they relate to subpara-
16 graph (A)(i), shall have, as their primary objectives,
17 the identification of the capital costs incurred by the
18 Postal Service in providing competitive products,
19 and preventing the cross-subsidization of such prod-
20 ucts by market-dominant products;

21 “(ii) shall address each matter which the Postal
22 Regulatory Commission is required to address under
23 paragraph (2)(B); and

24 “(iii) shall be submitted to the Postal Regu-
25 latory Commission no earlier than 6 months, and no



1 later than 12 months, after the effective date of this
2 section.

3 “(C) In carrying out the provisions of this paragraph
4 (as they relate to subparagraph (A)(i)), the Postal
5 Service—

6 “(i) shall consider a range of options suffi-
7 ciently broad so as to permit a meaningful compari-
8 son of the different methods available for accom-
9 plishing the objectives of this subsection; and

10 “(ii) shall include a schedule for implementation
11 of any recommendations submitted under this para-
12 graph.

13 “(2)(A)(i) Upon receiving the recommendations of
14 the Postal Service under paragraph (1), the Commission
15 shall give interested parties an opportunity to present
16 their views on those recommendations through submission
17 of written data, views, or arguments with or without op-
18 portunity for oral presentation, or in such other manner
19 as the Commission considers appropriate.

20 “(ii) For purposes of this paragraph, the term ‘inter-
21 ested parties’ includes the Postal Service, users of the
22 mails, and an officer of the Commission who shall be re-
23 quired to represent the interests of the general public.



1 “(B) After due consideration of the views and other
2 information received under subparagraph (A), the Com-
3 mission shall by rule—

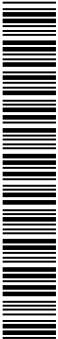
4 “(i) provide for the establishment and applica-
5 tion of the accounting practices and principles which
6 shall be followed by the Postal Service in
7 determining—

8 “(I) which assets of the Postal Service are
9 (in whole or in part) associated with providing
10 competitive products and, to the extent so asso-
11 ciated, their value;

12 “(II) which liabilities of the Postal Service
13 are (in whole or in part) associated with pro-
14 viding competitive products and, to the extent
15 so associated, their value; and

16 “(III) with respect to the purchase or sale
17 of any assets of the Postal Service, the extent
18 to which any costs or revenues of the Postal
19 Service arising out of such purchase or sale are
20 allocable to the provision of competitive prod-
21 ucts;

22 “(ii) provide for the establishment and applica-
23 tion of the substantive and procedural rules de-
24 scribed in paragraph (1)(A)(ii); and



1 “(iii) provide for the submission by the Postal
2 Service to the Postal Regulatory Commission of an-
3 nual reports setting forth such information as the
4 Commission may require in connection with section
5 3625, and periodic reports setting forth—

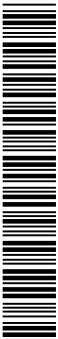
6 “(I) the most recent financial statements
7 and other information developed by the Postal
8 Service in conformance with the requirements
9 of clause (i);

10 “(II) the then current value of any invest-
11 ments made by the Postal Service; and

12 “(III) such other information as the Com-
13 mission may require to carry out the purposes
14 of this subparagraph.

15 Final rules under this subparagraph shall be issued not
16 later than 12 months after the date on which the Postal
17 Service makes its submission to the Commission under
18 paragraph (1)(B)(iii) (or by such later date as the Com-
19 mission and the Postal Service may agree to). If final rules
20 are not issued by the Commission by the deadline under
21 the preceding sentence, the recommendations submitted
22 by the Postal Service under paragraph (1)(B)(iii) shall be
23 treated as the final rules.

24 “(C) Reports described in subparagraph (B)(iii) shall
25 be submitted at such time and in such form, and shall



1 include such information, as the Commission by rule re-
2 quires. The Commission may, on its own motion or on re-
3 quest of an interested party, initiate proceedings (to be
4 conducted in accordance with such rules as the Commis-
5 sion shall prescribe) to improve the quality, accuracy, or
6 completeness of Postal Service data under such subpara-
7 graph whenever it shall appear that—

8 “(i) the quality of the information furnished in
9 those reports has become significantly inaccurate or
10 can be significantly improved; or

11 “(ii) such revisions are, in the judgment of the
12 Commission, otherwise necessitated by the public in-
13 terest.

14 “(D) A copy of each report described in subpara-
15 graph (B)(iii) shall also be transmitted by the Postal Serv-
16 ice to the Secretary of the Treasury and the Inspector
17 General of the United States Postal Service.

18 “(i) The Postal Service shall render an annual report
19 to the Secretary of the Treasury concerning the operation
20 of the Competitive Products Fund, in which it shall ad-
21 dress such matters as risk limitations, reserve balances,
22 allocation or distribution of moneys, liquidity require-
23 ments, and measures to safeguard against losses. A copy
24 of its then most recent report under this subsection shall
25 be included with any other submission that it is required



1 to make to the Postal Regulatory Commission under sec-
2 tion 3652(g).”.

3 (2) CLERICAL AMENDMENT.—The table of sec-
4 tions for chapter 20 of title 39, United States Code,
5 is amended by adding after the item relating to sec-
6 tion 2010 the following:

“2011. Provisions relating to competitive products.”.

7 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

8 (1) DEFINITION.—Section 2001 of title 39,
9 United States Code, is amended by striking “and”
10 at the end of paragraph (1), by redesignating para-
11 graph (2) as paragraph (3), and by inserting after
12 paragraph (1) the following:

13 “(2) ‘Competitive Products Fund’ means the
14 Postal Service Competitive Products Fund estab-
15 lished by section 2011; and”.

16 (2) CAPITAL OF THE POSTAL SERVICE.—Sec-
17 tion 2002(b) of title 39, United States Code, is
18 amended by striking “Fund,” and inserting “Fund
19 and the balance in the Competitive Products
20 Fund,”.

21 (3) POSTAL SERVICE FUND.—

22 (A) PURPOSES FOR WHICH AVAILABLE.—

23 Section 2003(a) of title 39, United States Code,
24 is amended by striking “title.” and inserting
25 “title (other than any of the purposes, func-



1 tions, or powers for which the Competitive
2 Products Fund is available).”.

3 (B) DEPOSITS.—Section 2003(b) of title
4 39, United States Code, is amended by striking
5 “There” and inserting “Except as otherwise
6 provided in section 2011, there”.

7 (4) INVESTMENTS.—Subsection (c) of section
8 2003 of title 39, United States Code, is amended—
9 (A) by striking “(c) If” and inserting
10 “(c)(1) Except as provided in paragraph (2),
11 if”; and

12 (B) by adding at the end the following:
13 “(2)(A) Nothing in this section shall be considered
14 to authorize any investment in any obligations or securi-
15 ties of a commercial entity.

16 “(B) For purposes of this paragraph, the term ‘com-
17 mercial entity’ means any corporation, company, associa-
18 tion, partnership, joint stock company, firm, society, or
19 other similar entity, as further defined under regulations
20 prescribed by the Postal Regulatory Commission.”.

21 (5) OBLIGATIONS.—

22 (A) PURPOSES FOR WHICH OBLIGATIONS
23 MAY BE ISSUED.—The first sentence of section
24 2005(a)(1) of title 39, United States Code, is
25 amended by striking “title.” and inserting



1 “title, other than any of the purposes for which
2 the corresponding authority is available to the
3 Postal Service under section 2011.”.

4 (B) INCREASE RELATING TO OBLIGATIONS
5 ISSUED FOR CAPITAL IMPROVEMENTS.—The
6 third sentence of section 2005(a)(1) of title 39,
7 United States Code, is amended by striking
8 “\$2,000,000,000” and inserting
9 “\$3,000,000,000”.

10 (C) INCREASE IN MAXIMUM OUTSTANDING
11 OBLIGATIONS ALLOWABLE.—Paragraph (2) of
12 section 2005(a) of title 39, United States Code,
13 is amended—

14 (i) by striking “and” at the end of
15 subparagraph (B); and

16 (ii) by striking subparagraph (C) and
17 inserting the following:

18 “(C) \$15,000,000,000 for each of fiscal years
19 1992 through 2001; and

20 “(D) \$25,000,000,000 for fiscal year 2002 and
21 each fiscal year thereafter.”.

22 (D) LIMITATIONS ON OBLIGATIONS OUT-
23 STANDING.—

24 (i) IN GENERAL.—Subsection (a) of
25 section 2005 of title 39, United States



1 Code, is amended by adding at the end the
2 following:

3 “(3) For purposes of applying the respective limita-
4 tions under this subsection, the aggregate amount of obli-
5 gations issued by the Postal Service which are outstanding
6 as of any one time, and the net increase in the amount
7 of obligations outstanding issued by the Postal Service for
8 the purpose of capital improvements or for the purpose
9 of defraying operating expenses of the Postal Service in
10 any fiscal year, shall be determined by aggregating the
11 relevant obligations issued by the Postal Service under this
12 section with the relevant obligations issued by the Postal
13 Service under section 2011.”.

14 (ii) CONFORMING AMENDMENT.—The
15 second sentence of section 2005(a)(1) of
16 title 39, United States Code, is amended
17 by striking “any such obligations” and in-
18 serting “obligations issued by the Postal
19 Service which may be”.

20 (E) AMOUNTS WHICH MAY BE PLEDGED,
21 ETC.—

22 (i) OBLIGATIONS TO WHICH PROVI-
23 SIONS APPLY.—The first sentence of sec-
24 tion 2005(b) of title 39, United States
25 Code, is amended by striking “such obliga-



1 tions,” and inserting “obligations issued by
2 the Postal Service under this section,”.

3 (ii) ASSETS, REVENUES, AND RE-
4 CEIPTS TO WHICH PROVISIONS APPLY.—
5 Subsection (b) of section 2005 of title 39,
6 United States Code, is amended by strik-
7 ing “(b)” and inserting “(b)(1)”, and by
8 adding at the end the following:

9 “(2) Notwithstanding any other provision of this
10 section—

11 “(A) the authority to pledge assets of the Post-
12 al Service under this subsection shall be available
13 only to the extent that such assets are not related
14 to the provision of competitive products (as deter-
15 mined under section 2011(h) or, for purposes of any
16 period before accounting practices and principles
17 under section 2011(h) have been established and ap-
18 plied, the best information available from the Postal
19 Service, including the audited statements required
20 by section 2008(e)); and

21 “(B) any authority under this subsection relat-
22 ing to the pledging or other use of revenues or re-
23 ceipts of the Postal Service shall be available only to
24 the extent that they are not revenues or receipts of
25 the Competitive Products Fund.”.



1 (6) RELATIONSHIP BETWEEN THE TREASURY
2 AND THE POSTAL SERVICE.—Section 2006 of title
3 39, United States Code, is amended—

4 (A) in subsection (b), by adding at the end
5 the following: “Nothing in this chapter shall be
6 considered to permit or require the Secretary of
7 the Treasury to purchase any obligations of the
8 Postal Service other than those issued under
9 section 2005.”; and

10 (B) in subsection (c), by inserting “under
11 section 2005” before “shall be obligations”.

12 **SEC. 204. SENSE OF CONGRESS.**

13 It is the sense of the Congress that nothing in section
14 3614(i)(4) of title 39, United States Code (as amended
15 by section 202) should be considered to alter the authority
16 of the United States Postal Service—

17 (1) to apply regular rates of postage, rather
18 than nonprofit rates, to mail matter described in
19 subparagraph (A), (B), (C), or (D)(i) of section
20 3614(i)(1) of such title (as so amended); or

21 (2) to enforce any criminal law within its juris-
22 diction.

23 **SEC. 205. SAVINGS PROVISION.**

24 To the extent that it is necessary to apply section
25 13(1)(B) of the National Voter Registration Act of 1993



1 (42 U.S.C. 1973gg note) on or after the date of enactment
2 of this Act, any reference to section 3629 of title 39,
3 United States Code, shall be considered to refer to section
4 3616 of such title (as amended by section 202).

5 **Subtitle B—Related Provisions**

6 **SEC. 211. AUTHORITY FOR POSTAL REGULATORY COMMIS-** 7 **SION TO ISSUE SUBPOENAS.**

8 Section 3604 of title 39, United States Code, is
9 amended by adding at the end the following:

10 “(f)(1) Any Commissioner of the Postal Regulatory
11 Commission, any administrative law judge appointed by
12 the Commission under section 3105 of title 5, and any
13 employee of the Commission designated by the Commis-
14 sion may administer oaths, examine witnesses, take depo-
15 sitions, and receive evidence.

16 “(2) The Chairman of the Commission, any Commis-
17 sioner designated by the Chairman, and any administra-
18 tive law judge appointed by the Commission under section
19 3105 of title 5 may, with respect to any proceeding con-
20 ducted by the Commission under this title—

21 “(A) issue subpoenas requiring the attendance
22 and presentation of testimony of any individual, and
23 the production of documentary or other evidence,
24 from any place in the United States, any territory
25 or possession of the United States, the Common-



1 wealth of Puerto Rico, or the District of Columbia;
2 and

3 “(B) order the taking of depositions and re-
4 sponses to written interrogatories.

5 The written concurrence of a majority of the Commis-
6 sioners then holding office shall, with respect to each sub-
7 poena under subparagraph (A), be required in advance of
8 its issuance.

9 “(3) In the case of contumacy or failure to obey a
10 subpoena issued under this subsection, upon application
11 by the Commission, the district court of the United States
12 for the district in which the person to whom the subpoena
13 is addressed resides or is served may issue an order requir-
14 ing such person to appear at any designated place to tes-
15 tify or produce documentary or other evidence. Any failure
16 to obey the order of the court may be punished by the
17 court as a contempt thereof.

18 “(g)(1) If the Postal Service determines that any doc-
19 ument or other matter it provides to the Postal Regulatory
20 Commission pursuant to a subpoena issued under sub-
21 section (f), or otherwise at the request of the Commission
22 in connection with any proceeding or other purpose under
23 this title, contains information which is described in sec-
24 tion 410(c) of this title, or exempt from public disclosure
25 under section 552(b) of title 5, the Postal Service shall,



1 at the time of providing such matter to the Commission,
2 notify the Commission, in writing, of its determination
3 (and the reasons therefor).

4 “(2) No officer or employee of the Commission may,
5 with respect to any information as to which the Commis-
6 sion has been notified under paragraph (1)—

7 “(A) use such information for purposes other
8 than the purposes for which it is supplied; or

9 “(B) permit anyone who is not an officer or
10 employee of the Commission to have access to any
11 such information.

12 “(3) Paragraph (2) shall not prevent information
13 from being furnished under any process of discovery estab-
14 lished under this title in connection with a proceeding
15 under this title which is conducted in accordance with sec-
16 tions 556 and 557 of title 5. The Commission shall, by
17 regulations based on rule 26(c) of the Federal Rules of
18 Civil Procedure, establish procedures for ensuring appro-
19 priate confidentiality for any information furnished under
20 the preceding sentence.”.

21 **SEC. 212. QUALIFICATION REQUIREMENTS FOR COMMIS-**
22 **SIONERS AND GOVERNORS.**

23 (a) COMMISSIONERS.—Section 3601(a) of title 39,
24 United States Code, is amended by striking the third sen-
25 tence and inserting the following: “The Commissioners



1 shall be chosen solely on the basis of their technical quali-
2 fications, professional standing, and demonstrated exper-
3 tise in economics, accounting, law, or public administra-
4 tion, and may be removed by the President only for
5 cause.”.

6 (b) GOVERNORS.—

7 (1) IN GENERAL.—Section 202(a) of title 39,
8 United States Code, is amended by striking “(a)”
9 and inserting “(a)(1)” and by striking the fourth
10 sentence and inserting the following: “The Gov-
11 ernors shall represent the public interest generally,
12 and shall be chosen solely on the basis of their dem-
13 onstrated ability in managing organizations or cor-
14 porations (in either the public or private sector) of
15 substantial size; for purposes of this sentence, an or-
16 ganization or corporation shall be considered to be
17 of substantial size if it employs at least 100,000 em-
18 ployees. The Governors shall not be representatives
19 of specific interests using the Postal Service, and
20 may be removed only for cause.”.

21 (2) CONSULTATION REQUIREMENT.—Section
22 202(a) of title 39, United States Code, is amended
23 by adding at the end the following:

24 “(2) In selecting the individuals described in para-
25 graph (1) for nomination for appointment to the position



1 of Governor, the President should consult with the Speak-
2 er of the House of Representatives, the minority leader
3 of the House of Representatives, the majority leader of
4 the Senate, and the minority leader of the Senate.”.

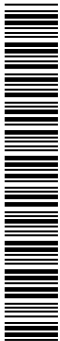
5 (3) RESTRICTION.—Section 202(b) of title 39,
6 United States Code, is amended by striking “(b)”
7 and inserting “(b)(1)”, and by adding at the end the
8 following:

9 “(2)(A) Notwithstanding any other provision of this
10 section, in the case of the office of the Governor the term
11 of which is the first one scheduled to expire at least 4
12 months after the date of enactment of this paragraph—

13 “(i) such office may not, in the case of any per-
14 son commencing service after that expiration date,
15 be filled by any person other than an individual cho-
16 sen from among persons nominated for such office
17 with the unanimous concurrence of all labor organi-
18 zations described in section 206(a)(1); and

19 “(ii) instead of the term that would otherwise
20 apply under the first sentence of paragraph (1), the
21 term of any person so appointed to such office shall
22 be 3 years.

23 “(B) Except as provided in subparagraph (A), an ap-
24 pointment under this paragraph shall be made in conform-



1 ance with all provisions of this section that would other-
2 wise apply.”.

3 (c) APPLICABILITY.—Nothing in this section shall af-
4 fect the tenure of any individual serving as a Commis-
5 sioner on the Postal Regulatory Commission or a Gov-
6 ernor of the Board of Governors of the United States
7 Postal Service pursuant to an appointment made before
8 the date of enactment of this Act, or, except as provided
9 in the amendment made by subsection (b)(3), any nomina-
10 tion made before such date of enactment.

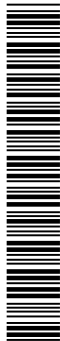
11 **SEC. 213. APPROPRIATIONS FOR THE COMMISSION.**

12 (a) AUTHORIZATION OF APPROPRIATIONS.—Sub-
13 section (d) of section 3604 of title 39, United States Code,
14 is amended to read as follows:

15 “(d) There are authorized to be appropriated, out of
16 the Postal Service Fund, such sums as may be necessary
17 for the Postal Regulatory Commission. In requesting an
18 appropriation under this subsection for a fiscal year, the
19 Commission shall prepare and submit to the Congress
20 under section 2009 a budget of the Commission’s ex-
21 penses, including expenses for facilities, supplies, com-
22 pensation, and employee benefits.”.

23 (b) BUDGET PROGRAM.—

24 (1) IN GENERAL.—The next to last sentence of
25 section 2009 of title 39, United States Code, is



1 amended to read as follows: “The budget program
2 shall also include separate statements of the
3 amounts which (1) the Postal Service requests to be
4 appropriated under subsections (b) and (c) of section
5 2401, (2) the Office of Inspector General of the
6 United States Postal Service requests to be appro-
7 priated, out of the Postal Service Fund, under sec-
8 tion 8G(f) of the Inspector General Act of 1978, and
9 (3) the Postal Regulatory Commission requests to be
10 appropriated, out of the Postal Service Fund, under
11 section 3604(d) of this title.”.

12 (2) CONFORMING AMENDMENT.—Section
13 2003(e)(1) of title 39, United States Code, is
14 amended by striking the first sentence and inserting
15 the following: “The Fund shall be available for the
16 payment of (A) all expenses incurred by the Postal
17 Service in carrying out its functions as provided by
18 law, subject to the same limitation as set forth in
19 the parenthetical matter under subsection (a); (B)
20 all expenses of the Postal Regulatory Commission,
21 subject to the availability of amounts appropriated
22 pursuant to section 3604(d); and (C) all expenses of
23 the Office of Inspector General, subject to the avail-
24 ability of amounts appropriated pursuant to section
25 8G(f) of the Inspector General Act of 1978.”.



1 (c) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by
3 this section shall apply with respect to fiscal years
4 beginning on or after October 1, 2001.

5 (2) SAVINGS PROVISION.—The provisions of
6 title 39, United States Code, that are amended by
7 this section shall, for purposes of any fiscal year be-
8 fore the first fiscal year to which the amendments
9 made by this section apply, continue to apply in the
10 same way as if this section had never been enacted.

11 **TITLE III—GENERAL AUTHORITY**

12 **SEC. 301. RULEMAKING AUTHORITY.**

13 Paragraph (2) of section 401 of title 39, United
14 States Code, is amended to read as follows:

15 “(2) to adopt, amend, and repeal such rules
16 and regulations, not inconsistent with this title, as
17 may be necessary in the execution of its functions
18 under this title and such other functions as may be
19 assigned to the Postal Service under any provisions
20 of law outside of this title;”.

21 **SEC. 302. DISCRIMINATORY PRICING, SERVICES, AND CLAS-**

22 **SIFICATION PROHIBITED.**

23 (a) IN GENERAL.—Section 403(c) of title 39, United
24 States Code, is amended—



1 (1) by inserting “domestic or international”
2 after “users of the”; and

3 (2) by striking “user.” and inserting “user, ex-
4 cept that this subsection shall not apply to competi-
5 tive products.”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall apply with respect to services, classifica-
8 tions, rates, and fees, to the extent provided or applicable
9 (as the case may be) on or after the first day of the fiscal
10 year in which occurs the deadline for the Postal Service’s
11 first report to the Postal Regulatory Commission under
12 section 3652(a) of title 39, United States Code (as amend-
13 ed by section 202).

14 **SEC. 303. EMPLOYMENT OF POSTAL POLICE OFFICERS.**

15 Section 404 of title 39, United States Code, as
16 amended by section 102(b), is further amended by adding
17 at the end the following:

18 “(f)(1) The Postal Service may employ guards for all
19 buildings and areas owned or occupied by the Postal Serv-
20 ice or under the charge and control of the Postal Service,
21 and such guards shall have, with respect to such property,
22 the powers of special policemen provided by the first sec-
23 tion of the Act cited in paragraph (2), and, as to such
24 property, the Postmaster General (or his designee) may
25 take any action that the Administrator of General Services



1 (or his designee) may take under section 2 or 3 of such
2 Act, attaching thereto penalties under the authority and
3 within the limits provided in section 4 of such Act.

4 “(2) The Act cited in this paragraph is the Act of
5 June 1, 1948 (62 Stat. 281), commonly known as the
6 ‘Protection of Public Property Act’.”.

7 **SEC. 304. DATE OF POSTMARK TO BE TREATED AS DATE OF**
8 **APPEAL IN CONNECTION WITH THE CLOSING**
9 **OR CONSOLIDATION OF POST OFFICES.**

10 (a) IN GENERAL.—Section 404(b) of title 39, United
11 States Code, is amended by adding at the end the fol-
12 lowing:

13 “(6) For purposes of paragraph (5), any appeal re-
14 ceived by the Commission shall—

15 “(A) if sent to the Commission through the
16 mails, be considered to have been received on the
17 date of the Postal Service postmark on the envelope
18 or other cover in which such appeal is mailed; or

19 “(B) if otherwise lawfully delivered to the Com-
20 mission, be considered to have been received on the
21 date determined based on any appropriate docu-
22 mentation or other indicia (as determined under reg-
23 ulations of the Commission).”.

24 (b) EFFECTIVE DATE.—This section and the amend-
25 ments made by this section shall apply with respect to any



1 determination to close or consolidate a post office which
2 is first made available, in accordance with paragraph (3)
3 of section 404(b) of title 39, United States Code, after
4 the end of the 3-month period beginning on the date of
5 enactment of this Act.

6 **SEC. 305. UNFAIR COMPETITION PROHIBITED.**

7 (a) SPECIFIC LIMITATIONS.—Chapter 4 of title 39,
8 United States Code, is amended by adding after section
9 404 the following:

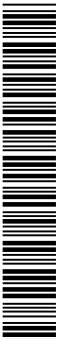
10 **“§ 404a. Specific limitations**

11 “(a)(1) Except as specifically authorized by law, the
12 Postal Service may not—

13 “(A) establish any rule or regulation (including
14 any standard) the effect of which is to create any
15 competitive advantage for itself or any entity funded
16 (in whole or in part) by the Postal Service;

17 “(B) regulate competition, or engage in any
18 regulatory or enforcement activity, with respect to
19 actions or practices that are subject to the antitrust
20 laws; or

21 “(C) compel the disclosure, transfer, or licens-
22 ing of intellectual property (such as patents, copy-
23 rights, trademarks, trade secrets, and proprietary in-
24 formation).



1 “(2)(A) For purposes of this section, the term ‘cov-
2 ered entity’ means the Postal Service and any entity fund-
3 ed (in whole or in part) by the Postal Service.

4 “(B) Except as specifically authorized by law, a cov-
5 ered entity may not—

6 “(i) provide any product with respect to which
7 the Postal Service precludes competition or other-
8 wise establishes the terms of competition through
9 regulation (including standard-setting), licensing, or
10 policy-setting;

11 “(ii) take any action prohibited under any of
12 the antitrust laws; or

13 “(iii) obtain information from a person that
14 provides (or seeks to provide) any product, and then
15 disclose such information, or offer any product or
16 service that uses or is based in whole or in part on
17 such information, without the consent of the person
18 providing that information, unless substantially the
19 same information is obtained (or obtainable) by such
20 covered entity from an independent source or is oth-
21 erwise obtained (or obtainable) by such covered enti-
22 ty in a manner not inconsistent with this clause.

23 “(C) Clause (ii) of subparagraph (B) shall, in connec-
24 tion with the Postal Service, apply only in the case of con-
25 duct with respect to any service which is not reserved to



1 the United States under section 1696 of title 18, subject
2 to the same exception as set forth in the last sentence of
3 section 409(d)(1).

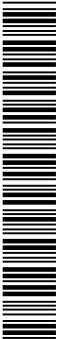
4 “(b)(1) For purposes of this section, the term ‘anti-
5 trust laws’ has the meaning given such term in subsection
6 (a) of the first section of the Clayton Act, but includes
7 section 5 of the Federal Trade Commission Act to the ex-
8 tent that such section 5 applies to unfair methods of com-
9 petition.

10 “(2) Nothing in this section shall be construed as lim-
11 iting the scope or effect of intellectual property rights rec-
12 ognized under the laws of the United States.

13 “(c)(1) No administrative remedy shall be available
14 in connection with any violation of subsection (a)(2)(B)
15 by any entity funded (in whole or in part) by the Postal
16 Service.

17 “(2) The United States district courts shall have
18 original but not exclusive jurisdiction over all actions aris-
19 ing under subsection (a)(2)(B) brought against any cov-
20 ered entity referred to in paragraph (1). Any such action
21 brought in a State court may be removed to the appro-
22 priate United States district court under the provisions
23 of chapter 89 of title 28.

24 “(d) The Postal Regulatory Commission shall pre-
25 scribe regulations to carry out this section.”.



1 (b) CONFORMING AMENDMENTS.—

2 (1) GENERAL POWERS.—Section 401 of title
3 39, United States Code, is amended by striking
4 “The” and inserting “Subject to the provisions of
5 section 404a, the”.

6 (2) SPECIFIC POWERS.—Section 404(a) of title
7 39, United States Code, is amended by striking
8 “Without” and inserting “Subject to the provisions
9 of section 404a, but otherwise without”.

10 (c) CLERICAL AMENDMENT.—The table of sections
11 for chapter 4 of title 39, United States Code, is amended
12 by inserting after the item relating to section 404 the fol-
13 lowing:

“404a. Specific limitations.”.

14 **SEC. 306. INTERNATIONAL POSTAL ARRANGEMENTS.**

15 (a) IN GENERAL.—Section 407 of title 39, United
16 States Code, is amended to read as follows:

17 **“§ 407. International postal arrangements**

18 “(a) It is the policy of the United States—

19 “(1) to promote and encourage communications
20 between peoples by efficient operation of inter-
21 national postal services and other international deliv-
22 ery services for cultural, social, and economic pur-
23 poses;

24 “(2) to promote and encourage unrestricted and
25 undistorted competition in the provision of inter-

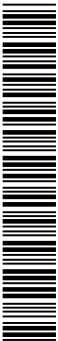


1 national postal services and other international deliv-
2 ery services, except where provision of such services
3 by private companies may be prohibited by law of
4 the United States;

5 “(3) to promote and encourage a clear distine-
6 tion between governmental and operational respon-
7 sibilities with respect to the provision of inter-
8 national postal services and other international deliv-
9 ery services by the Government of the United States
10 and by intergovernmental organizations of which the
11 United States is a member; and

12 “(4) to participate in multilateral and bilateral
13 agreements with other countries to accomplish these
14 objectives.

15 “(b)(1) The Secretary of State shall be responsible
16 for formulation, coordination, and oversight of foreign pol-
17 icy related to international postal services and other inter-
18 national delivery services, and shall have the power to con-
19 clude treaties, conventions and amendments related to
20 international postal services and other international deliv-
21 ery services, except that the Secretary may not conclude
22 any treaty, convention, or other international agreement
23 (including those regulating international postal services)
24 if such treaty, convention, or agreement would, with re-
25 spect to any competitive product, grant an undue or un-



1 reasonable preference to the Postal Service, a private pro-
2 vider of international postal or delivery services, or any
3 other person.

4 “(2) In carrying out the responsibilities specified in
5 paragraph (1), the Secretary of State shall exercise pri-
6 mary authority for the conduct of foreign policy with re-
7 spect to international postal services and international de-
8 livery services, including the determination of United
9 States positions and the conduct of United States partici-
10 pation in negotiations with foreign governments and inter-
11 national bodies. In exercising this authority, the
12 Secretary—

13 “(A) shall coordinate with other agencies as ap-
14 propriate, and in particular, shall give full consider-
15 ation to the authority vested by law or Executive
16 order in the Postal Regulatory Commission, the De-
17 partment of Commerce, the Department of Trans-
18 portation, and the Office of the United States Trade
19 Representative in this area;

20 “(B) shall maintain continuing liaison with
21 other executive branch agencies concerned with post-
22 al and delivery services;

23 “(C) shall maintain continuing liaison with the
24 Committee on Government Reform of the House of



1 Representatives and the Committee on Govern-
2 mental Affairs of the Senate;

3 “(D) shall maintain appropriate liaison with
4 both representatives of the Postal Service and rep-
5 resentatives of users and private providers of inter-
6 national postal services and other international deliv-
7 ery services to keep informed of their interests and
8 problems, and to provide such assistance as may be
9 needed to ensure that matters of concern are
10 promptly considered by the Department of State or
11 (if applicable, and to the extent practicable) other
12 executive branch agencies; and

13 “(E) shall assist in arranging meetings of such
14 public sector advisory groups as may be established
15 to advise the Department of State and other execu-
16 tive branch agencies in connection with international
17 postal services and international delivery services.

18 “(3) The Secretary of State shall establish an advi-
19 sory committee (within the meaning of the Federal Advi-
20 sory Committee Act) to perform such functions as the Sec-
21 retary considers appropriate in connection with carrying
22 out subparagraphs (A) through (D) of paragraph (2).

23 “(c) Nothing in this section shall be considered to
24 prevent the Postal Service from entering into such com-
25 mercial or operational contracts related to providing inter-



1 national postal services and other international delivery
2 services as it deems appropriate, except that—

3 “(1) any such contract made with an agency of
4 a foreign government (whether under authority of
5 this subsection or otherwise) shall be solely contrac-
6 tual in nature and may not purport to be inter-
7 national law; and

8 “(2) a copy of each such contract between the
9 Postal Service and an agency of a foreign govern-
10 ment shall be transmitted to the Secretary of State
11 and the Postal Regulatory Commission not later
12 than the effective date of such contract.

13 “(d)(1) With respect to shipments of international
14 mail within the meaning of section 3621 that are exported
15 or imported by the Postal Service—

16 “(A) the Postal Service shall not tender ex-
17 ported shipments to governmental authorities of any
18 other country for clearance and importation except
19 in accordance with procedures and laws which are
20 equally applicable to similar shipments transmitted
21 by private companies; and

22 “(B)(i) subject to clause (ii), the Customs Serv-
23 ice and other appropriate Federal agencies shall
24 apply the customs laws of the United States and all
25 other laws relating to the importation or exportation



1 of such shipments in the same manner to both ship-
2 ments by the Postal Service and similar shipments
3 by private companies; and

4 “(ii) the Customs Service and other appropriate
5 Federal agencies shall deny shipments imported by
6 the Postal Service from a foreign country access to
7 special customs procedures established in accordance
8 with international postal or customs agreements for
9 shipments by postal authorities of other countries,
10 unless that foreign country makes available such
11 special customs procedures both to shipments to
12 such country from the United States by the Postal
13 Service and similar shipments to such country from
14 the United States by private companies.

15 “(2)(A) The provisions of paragraph (1)(B)(i) shall
16 take effect 6 months after the date of enactment of this
17 subsection or such earlier date as the Customs Service
18 may determine in writing.

19 “(B) The provisions of subparagraphs (A) and (B)(ii)
20 of paragraph (1) shall take effect 5 years after the date
21 of enactment of this subsection.

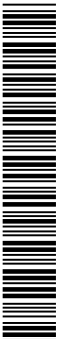
22 “(C) In exercising the authority pursuant to sub-
23 section (b) to conclude new treaties, conventions and
24 amendments related to international postal services and
25 to renegotiate such treaties, conventions and amendments,



1 the Secretary of State shall, to the maximum extent prac-
2 ticable, take such measures as are within the Secretary's
3 control to encourage the governments of other countries
4 to make any changes in their laws (consistent with the
5 policies carried out by the provisions referred to in sub-
6 paragraph (B)), and take such other actions, which may
7 be necessary in order to satisfy the conditions specified
8 in subparagraphs (A) and (B)(ii) of paragraph (1) in a
9 manner consistent with the goal of making available to
10 the Postal Service and private companies a range of non-
11 discriminatory customs procedures that will fully meet the
12 needs of all types of American shippers. The Secretary of
13 State shall consult with the United States Trade Rep-
14 resentative and the Commissioner of Customs in carrying
15 out this subparagraph.

16 “(3) For purposes of this subsection, the term ‘pri-
17 vate company’ means a private company substantially
18 owned or controlled by persons who are citizens of the
19 United States.”.

20 (b) EFFECTIVE DATE.—Notwithstanding any provi-
21 sion of the amendment made by subsection (a), the au-
22 thority of the United States Postal Service to establish
23 the rates of postage or other charges on mail matter con-
24 veyed between the United States and other countries shall
25 remain available to the Postal Service until the first day



1 of the fiscal year in which occurs the deadline for the Post-
2 al Service's first report to the Postal Regulatory Commis-
3 sion under section 3652(a) of title 39, United States Code
4 (as amended by section 202).

5 **SEC. 307. SUITS BY AND AGAINST THE POSTAL SERVICE.**

6 (a) IN GENERAL.—Section 409 of title 39, United
7 States Code, is amended by striking subsections (c)
8 through (e) and inserting the following:

9 “(c)(1) For purposes of the provisions of law cited
10 in paragraphs (2)(A) and (2)(B), respectively, the Postal
11 Service—

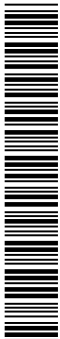
12 “(A) shall be considered to be a ‘person’, as
13 used in the provisions of law involved; and

14 “(B) shall not be immune under any other doc-
15 trine of sovereign immunity from suit in Federal
16 court by any person for any violation of any of those
17 provisions of law by any officer or employee of the
18 Postal Service.

19 “(2) This subsection applies with respect to—

20 “(A) the Act of July 5, 1946 (commonly re-
21 ferred to as the ‘Trademark Act of 1946’ (15 U.S.C.
22 1051 and following)); and

23 “(B) the provisions of section 5 of the Federal
24 Trade Commission Act to the extent that such sec-



1 tion 5 applies to unfair or deceptive acts or prac-
2 tices.

3 “(d)(1) To the extent that the Postal Service, or
4 other Federal agency acting on behalf of or in concert with
5 the Postal Service, engages in conduct with respect to any
6 service which is not reserved to the United States under
7 section 1696 of title 18, the Postal Service or other Fed-
8 eral agency (as the case may be)—

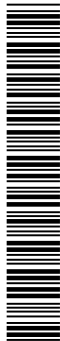
9 “(A) shall not be immune under any doctrine of
10 sovereign immunity from suit in Federal court by
11 any person for any violation of law by such agency
12 or any officer or employee thereof; and

13 “(B) shall be considered to be a person (as de-
14 fined in subsection (a) of the first section of the
15 Clayton Act) for purposes of—

16 “(i) the antitrust laws (as defined in such
17 subsection); and

18 “(ii) section 5 of the Federal Trade Com-
19 mission Act to the extent that such section 5
20 applies to unfair methods of competition.

21 For purposes of the preceding sentence, any private car-
22 riage of mail allowable by virtue of section 601 shall not
23 be considered a service reserved to the United States
24 under section 1696 of title 18.



1 “(2) This subsection shall not apply with respect to
2 conduct occurring before the date of enactment of this
3 subsection.

4 “(3) For purposes of any determination (in connec-
5 tion with bringing an action against the Postal Service
6 under any provision of law referred to in paragraph
7 (1)(B)) as to whether or not there has been exhaustion
8 of administrative remedies, section 404a shall be treated
9 as if it had never been enacted.

10 “(e)(1) Motor vehicles owned or leased by the Postal
11 Service that are primarily and regularly used for the
12 transport or delivery of products in the competitive cat-
13 egory of mail shall be subject to Federal and State laws
14 and regulations associated with the parking and operation
15 of such motor vehicles, to the same extent and in the same
16 manner as if they were owned or leased by a private com-
17 pany.

18 “(2) Any motor vehicle owned or leased by the Postal
19 Service that is primarily and regularly used for the trans-
20 port or delivery of products in the competitive category
21 of mail shall be clearly identified as such by appropriate
22 symbol or other marking.

23 “(3) This subsection shall become effective on the
24 first day of the fiscal year in which occurs the deadline



1 for the Postal Service's first report to the Postal Regu-
2 latory Commission under section 3652(a).

3 “(4) For purposes of this subsection, the term ‘State’
4 includes the District of Columbia, the Commonwealth of
5 Puerto Rico, and a territory or possession of the United
6 States.

7 “(f)(1) The Postal Service shall comply with—

8 “(A) any zoning, planning, and land use regula-
9 tions applicable to State or local public entities; and

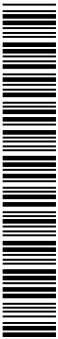
10 “(B) any building codes applicable to State or
11 local public entities.

12 “(2) For purposes of this subsection, the term ‘State’
13 has the meaning given such term by subsection (e).

14 “(g)(1) Notwithstanding any other provision of law,
15 legal representation may not be furnished by the Depart-
16 ment of Justice to the Postal Service in any action, suit,
17 or proceeding arising, in whole or in part, under any of
18 the following:

19 “(A) Subsection (c), (d), or (e) of section 409
20 (relating to application of certain laws to the Postal
21 Service).

22 “(B) Subsection (f) or (g) of section 3604 (re-
23 lating to administrative subpoenas by the Postal
24 Regulatory Commission).



1 “(C) Subsection (a) or (b) of section 3648 (re-
2 lating to appeals from decisions of the Commission
3 and the Governors).

4 The Postal Service may, by contract or otherwise, employ
5 attorneys to obtain any legal representation that it is pre-
6 cluded from obtaining from the Department of Justice
7 under this paragraph.

8 “(2) In any circumstance not covered by paragraph
9 (1), the Department of Justice shall, under section 411,
10 furnish the Postal Service such legal representation as it
11 may require, except that, with the prior consent of the
12 Attorney General, the Postal Service may, in any such cir-
13 cumstance, employ attorneys by contract or otherwise to
14 conduct litigation brought by or against the Postal Service
15 or its officers or employees in matters affecting the Postal
16 Service.

17 “(3)(A) In any action, suit, or proceeding in a court
18 of the United States arising in whole or in part under any
19 of the provisions of law referred to in subparagraph (B)
20 or (C) of paragraph (1), and to which the Commission
21 is not otherwise a party, the Commission shall be per-
22 mitted to appear as a party on its own motion and as
23 of right.

24 “(B) The Department of Justice shall, under such
25 terms and conditions as the Commission and the Attorney



1 General shall consider appropriate, furnish the Commis-
2 sion such legal representation as it may require in connec-
3 tion with any such action, suit, or proceeding, except that,
4 with the prior consent of the Attorney General, the Com-
5 mission may employ attorneys by contract or otherwise for
6 that purpose.

7 “(h) A judgment against the Government of the
8 United States arising out of activities of the Postal Service
9 shall be paid by the Postal Service out of any funds avail-
10 able to the Postal Service, subject to the restriction speci-
11 fied in section 2011(e).”.

12 (b) TECHNICAL AMENDMENT.—Section 409(a) of
13 title 39, United States Code, is amended by striking “Ex-
14 cept as provided in section 3628 of this title,” and insert-
15 ing “Except as otherwise provided in this title,”.

16 **SEC. 308. PROVISIONS RELATING TO BENEFITS UNDER**
17 **CHAPTER 81 OF TITLE 5, UNITED STATES**
18 **CODE, FOR OFFICERS AND EMPLOYEES OF**
19 **THE FORMER POST OFFICE DEPARTMENT.**

20 (a) IN GENERAL.—Section 8 of the Postal Reorga-
21 nization Act (39 U.S.C. 1001 note) is amended by insert-
22 ing “(a)” after “8.” and by adding at the end the fol-
23 lowing:

24 “(b) For purposes of chapter 81 of title 5, United
25 States Code, the Postal Service shall, with respect to any



1 individual receiving benefits under such chapter as an offi-
2 cer or employee of the former Post Office Department,
3 have the same authorities and responsibilities as it has
4 with respect to an officer or employee of the Postal Service
5 receiving such benefits.”.

6 (b) EFFECTIVE DATE.—This section and the amend-
7 ments made by this section shall take effect on October
8 1, 2001.

9 **SEC. 309. TECHNICAL AND CONFORMING AMENDMENTS.**

10 (a) APPROPRIATIONS.—Subsection (e) of section
11 2401 of title 39, United States Code, is amended—

12 (1) by striking “Committee on Post Office and
13 Civil Service” each place it appears and inserting
14 “Committee on Government Reform”; and

15 (2) by striking “Not later than March 15 of
16 each year,” and inserting “Each year,”.

17 (b) TECHNICAL CORRECTION.—Sections 2803(a) and
18 2804(a) of title 39, United States Code, are amended by
19 striking “2401(g)” and inserting “2401(e)”.

20 **TITLE IV—PROVISIONS RELAT-**
21 **ING TO TRANSPORTATION,**
22 **CARRIAGE, OR DELIVERY OF**
23 **MAIL**

24 **SEC. 401. OBSOLETE PROVISIONS.**

25 (a) REPEAL.—



1 (1) IN GENERAL.—Chapter 52 of title 39,
2 United States Code, is repealed.

3 (2) CONFORMING AMENDMENTS.—(A) Section
4 5005(a) of title 39, United States Code, is
5 amended—

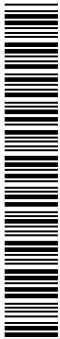
6 (i) by striking paragraph (1), and by re-
7 designating paragraphs (2) through (4) as
8 paragraphs (1) through (3), respectively; and

9 (ii) in paragraph (3) (as so designated by
10 clause (i)) by striking “(as defined in section
11 5201(6) of this title)”.

12 (B) Section 5005(b) of such title 39 is amended
13 by striking “(a)(4)” each place it appears and in-
14 serting “(a)(3)”.

15 (C) Section 5005(c) of such title 39 is amended
16 by striking “by carrier or person under subsection
17 (a)(1) of this section, by contract under subsection
18 (a)(4) of this section, or” and inserting “by contract
19 under subsection (a)(3) of this section or”.

20 (b) ELIMINATING RESTRICTION ON LENGTH OF CON-
21 TRACTS.—(1) Section 5005(b)(1) of title 39, United
22 States Code, is amended by striking “(or where the Postal
23 Service determines that special conditions or the use of
24 special equipment warrants, not in excess of 6 years)” and



1 inserting “(or such length of time as may be determined
2 by the Postal Service to be advisable or appropriate)”.

3 (2) Section 5402(c) of such title 39 is amended by
4 striking “for a period of not more than 4 years”.

5 (3) Section 5605 of such title 39 is amended by strik-
6 ing “for periods of not in excess of 4 years”.

7 (c) CLERICAL AMENDMENT.—The table of chapters
8 for part V of title 39, United States Code, is amended
9 by repealing the item relating to chapter 52.

10 **SEC. 402. EXPANDED CONTRACTING AUTHORITY.**

11 (a) AMENDMENT TO TITLE 39, UNITED STATES
12 CODE.—

13 (1) CONTRACTS WITH AIR CARRIERS.—Sub-
14 section (d) of section 5402 of title 39, United States
15 Code, is amended to read as follows:

16 “(d)(1) The Postal Service may contract with any air
17 carrier for the transportation of mail by aircraft in inter-
18 state air transportation, including the rates therefor, ei-
19 ther through negotiations or competitive bidding.

20 “(2) Notwithstanding subsections (a) through (c), the
21 Postal Service may contract with any air carrier or foreign
22 air carrier for the transportation of mail by aircraft in
23 foreign air transportation, including the rates therefor, ei-
24 ther through negotiations or competitive bidding, except
25 that—

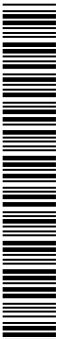


1 “(A) any such contract may be awarded only to
2 (i) an air carrier holding a certificate required by
3 section 41101 of title 49 or an exemption therefrom
4 issued by the Secretary of Transportation, (ii) a for-
5 eign air carrier holding a permit required by section
6 41301 of title 49 or an exemption therefrom issued
7 by the Secretary of Transportation, or (iii) a com-
8 bination of such air carriers or foreign air carriers
9 (or both);

10 “(B) mail transported under any such contract
11 shall not be subject to any duty-to-carry requirement
12 imposed by any provision of subtitle VII of title 49
13 or by any certificate, permit, or corresponding ex-
14 emption authority issued by the Secretary of Trans-
15 portation under that subtitle;

16 “(C) every contract that the Postal Service
17 awards to a foreign air carrier under this paragraph
18 shall be subject to the continuing requirement that
19 air carriers shall be afforded the same opportunity
20 to carry the mail of the country to and from which
21 the mail is transported and the flag country of the
22 foreign air carrier, if different, as the Postal Service
23 has afforded the foreign air carrier; and

24 “(D) the Postmaster General shall consult with
25 the Secretary of Defense concerning actions that af-



1 fect the carriage of military mail transported in for-
2 eign air transportation.

3 “(3) Paragraph (2) shall not be interpreted as sus-
4 pending or otherwise diminishing the authority of the Sec-
5 retary of Transportation under section 41310 of title 49.”.

6 (2) DEFINITIONS.—Subsection (e) of section
7 5402 of title 39, United States Code, is amended to
8 read as follows:

9 “(e) For purposes of this section, the terms ‘air car-
10 rier’, ‘air transportation’, ‘foreign air carrier’, ‘foreign air
11 transportation’, ‘interstate air transportation’, and ‘mail’
12 shall have the meanings given such terms in section 40102
13 of title 49.”.

14 (b) AMENDMENTS TO TITLE 49, UNITED STATES
15 CODE.—

16 (1) AUTHORITY OF POSTAL SERVICE TO PRO-
17 VIDE FOR INTERSTATE AIR TRANSPORTATION OF
18 MAIL.—Section 41901(a) of title 49, United States
19 Code, is amended to read as follows:

20 “(a) TITLE 39.—The United States Postal Service
21 may provide for the transportation of mail by aircraft in
22 air transportation under this chapter and under chapter
23 54 of title 39.”.

24 (2) SCHEDULES FOR CERTAIN TRANSPOR-
25 TATION OF MAIL.—Section 41902(b)(1) of title 49,



1 United States Code, is amended by inserting before
2 the semicolon at the end the following: “(other than
3 foreign air transportation of mail)”.

4 (3) PRICES FOR FOREIGN TRANSPORTATION OF
5 MAIL.—Section 41907 of title 49, United States
6 Code, is amended—

7 (A) by striking “(a) LIMITATIONS.—”; and

8 (B) by striking subsection (b).

9 (4) CONFORMING AMENDMENTS.—Sections
10 41107, 41901(b)(1), 41902(a), 41903(a), and
11 41903(b) of title 49, United States Code, are
12 amended by striking “in foreign air transportation
13 or”.

14 **SEC. 403. PRIVATE CARRIAGE OF LETTERS.**

15 (a) REPEAL OF SUSPENSION AUTHORITY.—Sub-
16 section (b) of section 601 of title 39, United States Code,
17 is repealed.

18 (b) PRIVATE CARRIAGE.—Section 601 of title 39,
19 United States Code, is amended by striking subsection (a)
20 and inserting the following:

21 “(a) A letter may be carried out of the mails when—

22 “(1) the amount paid for the private carriage of
23 the letter is at least the amount equal to 6 times the
24 rate then currently charged for the 1st ounce of a
25 single-piece first-class letter;



1 “(2) the letter weighs at least 12½ ounces;

2 “(3) such carriage is within the scope of serv-
3 ices described by regulations of the United States
4 Postal Service (as in effect on July 1, 2001) that
5 purport to permit private carriage by suspension of
6 the operation of this subsection (as then in effect);
7 or

8 “(4) the requirements of subsection (b) are
9 met.

10 “(b) A letter shall be considered to satisfy the re-
11 quirements of this subsection if—

12 “(1) it is enclosed in an envelope;

13 “(2) the amount of postage which would have
14 been charged on the letter if it had been sent by
15 mail is paid by stamps, or postage meter stamps, on
16 the envelope;

17 “(3) the envelope is properly addressed;

18 “(4) the envelope is so sealed that the letter
19 cannot be taken from it without defacing the enve-
20 lope;

21 “(5) any stamps on the envelope are canceled in
22 ink by the sender; and

23 “(6) the date of the letter, of its transmission
24 or receipt by the carrier is endorsed on the envelope
25 in ink.”.



1 (c) EFFECTIVE DATE.—This section shall take effect
2 as of the first day of the fiscal year in which occurs the
3 deadline for the Postal Service’s first report to the Postal
4 Regulatory Commission under section 3652(a) of title 39,
5 United States Code (as amended by section 202).

6 **SEC. 404. REPEAL OF SECTION 5403.**

7 (a) IN GENERAL.—Section 5403 of title 39, United
8 States Code, is repealed.

9 (b) CLERICAL AMENDMENT.—The table of sections
10 for chapter 54 of title 39, United States Code, is amended
11 by repealing the item relating to section 5403.

12 **TITLE V—EVALUATIONS**

13 **SEC. 501. ASSESSMENTS OF RATEMAKING, CLASSIFICA-**
14 **TION, AND OTHER PROVISIONS.**

15 (a) IN GENERAL.—The Postal Regulatory Commis-
16 sion shall, at least every 5 years, submit a report to the
17 President and the Congress concerning—

18 (1) the operation of the amendments made by
19 the Postal Accountability and Enhancement Act;
20 and

21 (2) recommendations for any legislation or
22 other measures necessary to improve the effective-
23 ness or efficiency of the postal laws of the United
24 States.



1 (b) POSTAL SERVICE VIEWS.—A report under this
2 section shall be submitted only after reasonable oppor-
3 tunity has been afforded to the Postal Service to review
4 such report and to submit written comments thereon. Any
5 comments timely received from the Postal Service under
6 the preceding sentence shall be attached to the report sub-
7 mitted under subsection (a).

8 (c) SPECIFIC INFORMATION REQUIRED.—The Postal
9 Regulatory Commission shall include, as part of at least
10 its first report under subsection (a), the following:

11 (1) COST-COVERAGE REQUIREMENT RELATING
12 TO COMPETITIVE PRODUCTS COLLECTIVELY; SERV-
13 ICE AGREEMENTS.—With respect to sections 3624
14 and 3671 of title 39, United States Code (as amend-
15 ed by this Act)—

16 (A) a description of how each such section
17 has operated; and

18 (B) recommendations as to whether or not
19 such section should remain in effect and, if so,
20 any suggestions as to how it might be improved.

21 (2) COMPETITIVE PRODUCTS FUND.—With re-
22 spect to the Postal Service Competitive Products
23 Fund (under section 2011 of title 39, United States
24 Code, as amended by section 203), in consultation
25 with the Secretary of the Treasury—



1 (A) a description of how such Fund has
2 operated;

3 (B) any suggestions as to how the oper-
4 ation of such Fund might be improved; and

5 (C) a description and assessment of alter-
6 native accounting or financing mechanisms that
7 might be used to achieve the objectives of such
8 Fund.

9 (3) ASSUMED FEDERAL INCOME TAX ON COM-
10 PETITIVE PRODUCTS FUND.—With respect to section
11 3625 of title 39, United States Code (as amended by
12 this Act), in consultation with the Secretary of the
13 Treasury—

14 (A) a description of how such section has
15 operated; and

16 (B) recommendations as to whether or not
17 such section should remain in effect and, if so,
18 any suggestions as to how it might be improved.

19 **SEC. 502. EMPLOYEE-MANAGEMENT RELATIONS.**

20 (a) INDEPENDENT STUDY REQUIRED.—The Board
21 of Governors shall, by contract, provide for the National
22 Academy of Public Administration to conduct an inde-
23 pendent study as to how employee-management relations
24 within the United States Postal Service may be improved.



1 (b) SPECIFIC REQUIREMENTS.—Under the contract,
2 the Academy shall be required—

3 (1) to involve the labor, supervisory, and mana-
4 gerial organizations of the Postal Service in devel-
5 oping the design and specific objectives of the study;

6 (2) to consult periodically with representatives
7 of the Postal Service, and of those labor, super-
8 visory, and managerial organizations, on the
9 progress of the study; and

10 (3) to provide opportunity for those labor, su-
11 pervisory, and managerial organizations to review
12 and submit written comments on the final report.

13 (c) FINAL REPORT.—

14 (1) IN GENERAL.—The Academy shall, not later
15 than 12 months after the date on which the contract
16 for the study under this section is entered into, sub-
17 mit its final report to the President, the Congress,
18 the Postal Service, and the labor, supervisory, and
19 managerial organizations of the Postal Service.

20 (2) CONTENTS.—The report shall contain the
21 findings, conclusions, and recommendations of the
22 Academy on all matters required to be addressed by
23 the study, and shall also include all written com-
24 ments submitted to the Academy under subsection
25 (b)(3).



1 (d) COOPERATION.—The Board of Governors shall
2 take appropriate measures to ensure that all components
3 of the Postal Service cooperate fully with the Academy in
4 the conduct of its study under this section.

5 **SEC. 503. RECOMMENDATIONS ON UNIVERSAL POSTAL**
6 **SERVICES.**

7 (a) IN GENERAL.—Chapter 28 of title 39, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

10 **“§ 2806. Universal postal services**

11 “(a)(1) Within 1 month after the date of enactment
12 of this section, the Postal Service shall begin conducting
13 a study the purpose of which shall be to develop rec-
14 ommendations as to the appropriate scope and standards
15 for universal postal services to be assured by the Govern-
16 ment of the United States consistent with its obligations
17 under sections 101 and 403 and other provisions of this
18 title.

19 “(2) The Postal Service shall, within 18 months
20 thereafter, complete its study and submit a written report
21 to the President, the Congress, and the Postal Regulatory
22 Commission setting forth its recommendations under this
23 section and the reasons therefor.

24 “(3) The Postal Service shall solicit and include as
25 part of its report the written views and suggestions of any



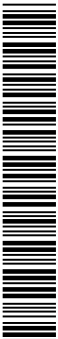
1 persons who may be affected by or interested in any mat-
2 ter as to which the study pertains.

3 “(4) The conduct of the study and the drafting of
4 the report required under this section shall, consistent
5 with section 2805 (relating to inherently Governmental
6 functions), be performed only by employees of the Postal
7 Service.

8 “(b)(1) The recommendations submitted by the Post-
9 al Service under this section shall include recommenda-
10 tions concerning a universal service definition for each
11 class of delivery services the continuous provision of which
12 must, in the view of the Postal Service, be assured in order
13 to fulfill its obligations under sections 101 and 403 and
14 other provisions of this title.

15 “(2) In developing its recommendations under this
16 subsection with respect to any given class of delivery serv-
17 ices, the Postal Service shall take into consideration the
18 development of new technologies and the evolution of al-
19 ternative means of meeting the public interest objectives
20 set out in this title.

21 “(c) Each universal service definition recommended
22 by the Postal Service under this section shall include the
23 specification of minimum standards of service to be at-
24 tained, consistent with the following:

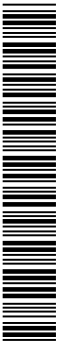


1 “(1) Standards of reliability, speed, frequency,
2 and quality of service shall be established so as to
3 meet the needs of users and consumers of universal
4 services generally.

5 “(2) Universal services should be available at
6 just, reasonable, and affordable rates sufficient to
7 enable universal services to be provided under best
8 practices of honest, efficient, and economical man-
9 agement.

10 “(3) Persons in all regions of the Nation, in-
11 cluding low-income persons and those located in
12 rural, insular, and high-cost areas, should have ac-
13 cess to universal postal services that are reasonably
14 comparable to those provided in urban areas and
15 that are available at appropriate rates. As provided
16 in section 101(b), no small post office of the Postal
17 Service shall be closed solely by reason of operating
18 at a deficit.

19 “(4) In providing universal services, the Postal
20 Service shall not, except as specifically authorized in
21 this title, make any undue or unreasonable discrimi-
22 nation among users, including other providers of
23 postal services.



1 “(5) Universal services shall be maintained
2 without interruption and without abrupt and sub-
3 stantial changes in rates or quality of service.

4 “(6) Standards for universal service should
5 avoid distortions in competition between postal oper-
6 ators and between commercial purchasers of postal
7 services to the extent consistent with fulfilling its ob-
8 ligations under sections 101 and 403 and other pro-
9 visions of this title.

10 “(7) Universal service definitions for the State
11 of Alaska shall take into account the special condi-
12 tions and needs of that State.

13 “(8) Universal services shall be provided con-
14 sistent with such other principles as the Postal Serv-
15 ice determines are necessary and appropriate for the
16 protection of the public interest, convenience, and
17 necessity, and the requirements of this title.

18 “(d) In addition to the principles set out in subsection
19 (c), the Postal Service shall take into account special re-
20 quirements for certain classes of postal services under this
21 title, including requirements for uniform, reduced, or free
22 rates.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 for chapter 28 of title 39, United States Code, is amended
25 by adding at the end the following:

 “2806. Universal postal services.”.



1 **SEC. 504. STUDY ON EQUAL APPLICATION OF LAWS TO**
2 **COMPETITIVE PRODUCTS.**

3 (a) IN GENERAL.—The Federal Trade Commission
4 shall prepare and submit to the President and Congress,
5 within 1 year after the date of enactment of this Act, a
6 comprehensive report identifying Federal and State laws
7 that apply differently to products of the United States
8 Postal Service in the competitive category of mail (within
9 the meaning of section 102 of title 39, United States Code,
10 as amended by section 102) and similar products provided
11 by private companies.

12 (b) RECOMMENDATIONS.—The Federal Trade Com-
13 mission shall include such recommendations as it con-
14 siderers appropriate for bringing such legal discrimination
15 to an end.

16 (c) CONSULTATION.—In preparing its report, the
17 Federal Trade Commission shall consult with the United
18 States Postal Service, the Postal Regulatory Commission,
19 other Federal agencies, mailers, private companies that
20 provide delivery services, and the general public, and shall
21 append to such report any written comments received
22 under this subsection.



1 **SEC. 505. GREATER DIVERSITY IN POSTAL SERVICE EXECU-**
2 **TIVE AND ADMINISTRATIVE SCHEDULE MAN-**
3 **AGEMENT POSITIONS.**

4 (a) STUDY.—The Board of Governors shall study
5 and, within 1 year after the date of enactment of this Act,
6 submit to the President and Congress a report concerning
7 the extent to which women and minorities are represented
8 in supervisory and management positions within the
9 United States Postal Service. Any data included in the re-
10 port shall be presented in the aggregate and by pay level.

11 (b) PERFORMANCE EVALUATIONS.—The United
12 States Postal Service shall, as soon as practicable, take
13 such measures as may be necessary to ensure that, for
14 purposes of conducting performance appraisals of super-
15 visory or managerial employees, appropriate consideration
16 shall be given to meeting affirmative action goals, achiev-
17 ing equal employment opportunity requirements, and im-
18 plementation of plans designed to achieve greater diversity
19 in the workforce.

20 **SEC. 506. PLAN FOR ASSISTING DISPLACED WORKERS.**

21 (a) PLAN.—The United States Postal Service shall,
22 before the deadline specified in subsection (b), develop and
23 be prepared to implement, whenever necessary, a com-
24 prehensive plan under which reemployment assistance
25 shall be afforded to employees displaced as a result of the
26 automation or privatization of any of its functions.



1 (b) REPORT.—Not later than 1 year after the date
2 of enactment of this Act, the United States Postal Service
3 shall submit to its Board of Governors and Congress a
4 written report describing its plan under this section.

5 **SEC. 507. CONTRACTS WITH WOMEN, MINORITIES, AND**
6 **SMALL BUSINESSES.**

7 The Board of Governors shall study and, within 1
8 year after the date of enactment of this Act, submit to
9 the President and the Congress a report concerning the
10 number and value of contracts and subcontracts the Post-
11 al Service has entered into with women, minorities, and
12 small businesses.

13 **SEC. 508. RATES FOR PERIODICALS.**

14 (a) IN GENERAL.—The United States Postal Service,
15 acting jointly with the Postal Regulatory Commission and
16 the General Accounting Office, shall study and submit to
17 the President and Congress a report concerning—

18 (1) the quality, accuracy, and completeness of
19 the information used by the Postal Service in deter-
20 mining the direct and indirect postal costs attrib-
21 utable to periodicals; and

22 (2) any opportunities that might exist for im-
23 proving efficiencies in the collection, handling, trans-
24 portation, or delivery of periodicals by the Postal



1 Service, including any pricing incentives for mailers
2 that might be appropriate.

3 (b) RECOMMENDATIONS.—The report shall include
4 recommendations for any administrative action or legisla-
5 tion that might be appropriate.

6 **SEC. 509. ASSESSMENT OF CERTAIN RATE DEFICIENCIES.**

7 (a) IN GENERAL.—Within 12 months after the date
8 of enactment of this Act, the Office of Inspector General
9 of the United States Postal Service shall study and submit
10 to the President, the Congress, and the United States
11 Postal Service, a report concerning the administration of
12 section 3626(k) of title 39, United States Code.

13 (b) SPECIFIC REQUIREMENTS.—The study and re-
14 port shall specifically address the adequacy and fairness
15 of the process by which assessments under section 3626(k)
16 of title 39, United States Code (redesignated by section
17 202(a)(1) as section 3614(j) of such title), are determined
18 and appealable, including—

19 (1) whether the Postal Regulatory Commission
20 or any other body outside the Postal Service should
21 be assigned a role; and

22 (2) whether a statute of limitations should be
23 established for the commencement of proceedings by
24 the Postal Service thereunder.



1 **SEC. 510. DEFINITION.**

2 For purposes of this title, the term “Board of Gov-
3 ernors” has the meaning given such term by section 102
4 of title 39, United States Code.

5 **TITLE VI—INSPECTORS**
6 **GENERAL**

7 **SEC. 601. INSPECTOR GENERAL OF THE POSTAL REGU-**
8 **LATORY COMMISSION.**

9 (a) IN GENERAL.—Paragraph (2) of section 8G(a)
10 of the Inspector General Act of 1978 is amended by insert-
11 ing “the Postal Regulatory Commission,” after “the
12 United States International Trade Commission,”.

13 (b) ADMINISTRATION.—Section 3604 of title 39,
14 United States Code, is amended by adding after sub-
15 section (g) (as added by section 211) the following:

16 “(h)(1) Notwithstanding any other provision of this
17 title or of the Inspector General Act of 1978, the authority
18 to select, appoint, and employ officers and employees of
19 the Office of Inspector General of the Postal Regulatory
20 Commission, and to obtain any temporary or intermittent
21 services of experts or consultants (or an organization of
22 experts or consultants) for such Office, shall reside with
23 the Inspector General of the Postal Regulatory Commis-
24 sion.

25 “(2) Except as provided in paragraph (1), any exer-
26 cise of authority under this subsection shall, to the extent



1 practicable, be in conformance with the applicable laws
2 and regulations that govern selections, appointments and
3 employment, and the obtaining of any such temporary or
4 intermittent services, within the Postal Regulatory Com-
5 mission.”.

6 (c) DEADLINE.—No later than 180 days after the
7 date of enactment of this Act—

8 (1) the first Inspector General of the Postal
9 Regulatory Commission shall be appointed; and

10 (2) the Office of Inspector General of the Post-
11 al Regulatory Commission shall be established.

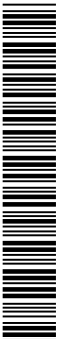
12 **SEC. 602. INSPECTOR GENERAL OF THE UNITED STATES**
13 **POSTAL SERVICE TO BE APPOINTED BY THE**
14 **PRESIDENT.**

15 (a) DEFINITIONAL AMENDMENTS TO THE INSPEC-
16 TOR GENERAL ACT OF 1978.—Section 11 of the Inspector
17 General Act of 1978 is amended—

18 (1) in paragraph (1)—

19 (A) by striking “and” before “the chief ex-
20 ecutive officer of the Resolution Trust Corpora-
21 tion”;

22 (B) by striking “and” before “the Chair-
23 person of the Federal Deposit Insurance Cor-
24 poration”; and



1 (C) by inserting “the Postmaster General;”
2 after “Social Security Administration;”; and
3 (2) in paragraph (2)—

4 (A) by striking “or” before “the Veterans’
5 Administration”; and

6 (B) by inserting “the United States Postal
7 Service,” after “Social Security Administra-
8 tion,”.

9 (b) SPECIAL PROVISIONS CONCERNING THE UNITED
10 STATES POSTAL SERVICE.—

11 (1) IN GENERAL.—The Inspector General Act
12 of 1978 is amended—

13 (A) by redesignating sections 8G (as
14 amended by section 601(a)), 8H, and 8I as sec-
15 tions 8H through 8J, respectively; and

16 (B) by inserting after section 8F the fol-
17 lowing:

18 “SPECIAL PROVISIONS CONCERNING THE UNITED STATES
19 POSTAL SERVICE

20 “SEC. 8G. (a) Notwithstanding the last two sentences
21 of section 3(a), the Inspector General of the United States
22 Postal Service shall report to and be under the general
23 supervision of the Postmaster General, but shall not re-
24 port to, or be subject to supervision by, any other officer
25 or employee of the United States Postal Service or its
26 Board of Governors. No such officer or employee (includ-



1 ing the Postmaster General) or member of such Board
2 shall prevent or prohibit the Inspector General from initi-
3 ating, carrying out, or completing any audit or investiga-
4 tion, or from issuing any subpoena during the course of
5 any audit or investigation.

6 “(b) In carrying out the duties and responsibilities
7 specified in this Act, the Inspector General of the United
8 States Postal Service shall have oversight responsibility
9 for all activities of the Postal Inspection Service, including
10 any internal investigation performed by the Postal Inspec-
11 tion Service. The Chief Postal Inspector shall promptly re-
12 port the significant activities being carried out by the
13 Postal Inspection Service to such Inspector General.

14 “(c) Any report required to be transmitted by the
15 Postmaster General to the appropriate committees or sub-
16 committees of the Congress under section 5(d) shall also
17 be transmitted, within the 7-day period specified under
18 such section, to the Committee on Government Reform of
19 the House of Representatives and the Committee on Gov-
20 ernmental Affairs of the Senate.

21 “(d) Notwithstanding any provision of paragraph (7)
22 or (8) of section 6(a), the Inspector General of the United
23 States Postal Service may select, appoint, and employ
24 such officers and employees as may be necessary for car-
25 rying out the functions, powers and duties of the Office



1 of Inspector General and to obtain the temporary or inter-
2 mittent services of experts or consultants or an organiza-
3 tion of experts or consultants, subject to the applicable
4 laws and regulations that govern such selections, appoint-
5 ments, and employment, and the obtaining of such serv-
6 ices, within the United States Postal Service.

7 “(e) Nothing in this Act shall restrict, eliminate, or
8 otherwise adversely affect any of the rights, privileges, or
9 benefits of employees of the United States Postal Service,
10 or labor organizations representing employees of the
11 United States Postal Service, under chapter 12 of title 39,
12 United States Code, the National Labor Relations Act,
13 any handbook or manual affecting employee labor rela-
14 tions with the United States Postal Service, or any collec-
15 tive bargaining agreement.

16 “(f) There are authorized to be appropriated, out of
17 the Postal Service Fund, such sums as may be necessary
18 for the Office of Inspector General of the United States
19 Postal Service.

20 “(g) As used in this section, ‘Board of Governors’ and
21 ‘Board’ each has the meaning given it by section 102 of
22 title 39, United States Code.”.

23 (2) RELATED PROVISIONS.—

For certain related provisions, see section 213(b).

24 (c) AUDITS OF THE POSTAL SERVICE.—



1 (1) AUDITS.—Subsection (e) of section 2008 of
2 title 39, United States Code, is amended to read as
3 follows:

4 “(e)(1) At least once each year beginning with the
5 fiscal year commencing after the date of enactment of the
6 Postal Accountability and Enhancement Act, the financial
7 statements of the Postal Service (including those used in
8 determining and establishing postal rates) shall be audited
9 by the Inspector General or by an independent external
10 auditor selected by the Inspector General.

11 “(2) Audits under this section shall be conducted in
12 accordance with applicable generally accepted government
13 auditing standards.

14 “(3) Upon completion of the audit required by this
15 subsection, the person who audits the statement shall sub-
16 mit a report on the audit to the Postmaster General.”.

17 (2) RESULTS OF INSPECTOR GENERAL’S AUDIT
18 TO BE INCLUDED IN ANNUAL REPORT.—Section
19 2402 of title 39, United States Code, is amended by
20 inserting after the first sentence the following:
21 “Each report under this section shall include, for the
22 most recent fiscal year for which a report under sec-
23 tion 2008(e) is available (unless previously trans-
24 mitted under the following sentence), a copy of such
25 report.”.



1 (3) COORDINATION PROVISIONS.—Section
2 2008(d) of title 39, United States Code, is
3 amended—

4 (A) by striking “(d) Nothing” and insert-
5 ing “(d)(1) Except as provided in paragraph
6 (2), nothing”; and

7 (B) by adding at the end the following:

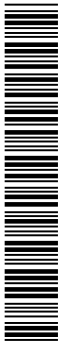
8 “(2) An audit or report under paragraph (1) may not
9 be obtained without the prior written approval of the In-
10 specter General.”.

11 (4) SAVINGS PROVISION.—For purposes of any
12 fiscal year preceding the first fiscal year com-
13 mencing after the date of enactment of this Act, the
14 provisions of title 39, United States Code, shall be
15 applied as if the amendments made by this sub-
16 section had never been enacted.

17 (d) REPORTS.—Section 3013 of title 39, United
18 States Code, is amended by striking “Postmaster Gen-
19 eral” each place it appears and inserting “Chief Postal
20 Inspector”.

21 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

22 (1) RELATING TO THE INSPECTOR GENERAL
23 ACT OF 1978.—(A) Subsection (a) of section 8H of
24 the Inspector General Act of 1978 (as amended by



1 section 601(a) and redesignated by subsection (b) of
2 this section) is further amended—

3 (i) in paragraph (2) by striking “the Post-
4 al Regulatory Commission, and the United
5 States Postal Service;” and inserting “and the
6 Postal Regulatory Commission;” and

7 (ii) in paragraph (4) by striking “except
8 that” and all that follows through “Code);” and
9 inserting “except that, with respect to the Na-
10 tional Science Foundation, such term means the
11 National Science Board;”.

12 (B)(i) Subsection (f) of section 8H of such Act
13 (as so redesignated) is repealed.

14 (ii) Subsection (c) of section 8H of such Act (as
15 so redesignated) is amended by striking “Except as
16 provided under subsection (f) of this section, the”
17 and inserting “The”.

18 (C) Section 8J of such Act (as so redesignated)
19 is amended—

20 (i) by striking all after “8D,” and before
21 “of this Act” and inserting “ 8E, 8F, 8G, or
22 8I”; and

23 (ii) by striking “8G(a)” and inserting
24 “8H(a)”.



1 (2) RELATING TO TITLE 39, UNITED STATES
2 CODE.—(A) Subsection (e) of section 202 of title 39,
3 United States Code, is repealed.

4 (B) Paragraph (4) of section 102 of such title
5 39 (as amended by section 102(a)) is amended to
6 read as follows:

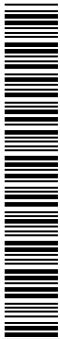
7 “(4) ‘Inspector General’ means the Inspector
8 General of the United States Postal Service, ap-
9 pointed under section 3(a) of the Inspector General
10 Act of 1978;”.

11 (C) The first sentence of section 1003(a) of
12 such title 39 is amended by striking “chapters 2 and
13 12 of this title, section 8G of the Inspector General
14 Act of 1978, or other provision of law,” and insert-
15 ing “chapter 2 or 12 of this title, subsection (b) or
16 (c) of section 1003 of this title, or any other provi-
17 sion of law,”.

18 (D) Section 1003(b) of such title 39 is amended
19 by striking “respective” and inserting “other”.

20 (E) Section 1003(c) of such title 39 is amended
21 by striking “included” and inserting “includes”.

22 (3) RELATING TO THE FEDERAL PROPERTY
23 AND ADMINISTRATIVE SERVICES ACT OF 1949.—Sec-
24 tion 304C(b)(1) of the Federal Property and Admin-
25 istrative Services Act of 1949 (41 U.S.C.



1 254d(b)(1)) is amended by striking “8G” and insert-
2 ing “8H”.

3 (4) RELATING TO THE ENERGY POLICY ACT OF
4 1992.—Section 160(a) of the Energy Policy Act of
5 1992 (42 U.S.C. 8262f(a)) is amended (in the mat-
6 ter before paragraph (1)) by striking all that follows
7 “(5 U.S.C. App.)” and before “shall—”.

8 (f) EFFECTIVE DATE; ELIGIBILITY OF PRIOR IN-
9 SPECTOR GENERAL.—

10 (1) EFFECTIVE DATE.—

11 (A) IN GENERAL.—Except as provided in
12 subparagraph (B) or subsection (c), this section
13 and the amendments made by this section shall
14 take effect on the date of enactment of this Act.

15 (B) SPECIAL RULES.—

16 (i) IN GENERAL.—If the position of
17 Inspector General of the United States
18 Postal Service is occupied on the date of
19 enactment of this Act (other than by an in-
20 dividual serving due to a vacancy arising in
21 that position before the expiration of his or
22 her predecessor’s term), then, for purposes
23 of the period beginning on such date of en-
24 actment and ending on January 5, 2004,
25 or, if earlier, the date on which such indi-



vidual ceases to serve in that position, title 39, United States Code, and the Inspector General Act of 1978 shall be applied as if the amendments made by this section had not been enacted, except—

(I) for those made by subsections (c) and (d); and

(II) as provided in clause (ii).

(ii) AUTHORIZATION OF APPROPRIATIONS.—

(I) IN GENERAL.—Notwithstanding any other provision of this paragraph, subsection (f) of section 8G of the Inspector General Act of 1978 (as amended by this section) shall be effective for purposes of fiscal years beginning on or after October 1, 2001.

(II) SAVINGS PROVISION.—For purposes of the fiscal year ending on September 30, 2001, funding for the Office of Inspector General of the United States Postal Service shall be made available in the same manner as if this Act had never been enacted.



1 (2) ELIGIBILITY OF PRIOR INSPECTOR GEN-
2 ERAL.—Nothing in this Act shall prevent any indi-
3 vidual who has served as Inspector General of the
4 United States Postal Service at any time before the
5 date of enactment of this Act from being appointed
6 to that position pursuant to the amendments made
7 by this section.

